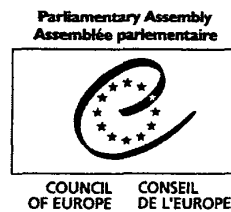


Parliamentary Assembly
Assemblée parlementaire

Europarådet
ERD alm. del - Bilag 8
Offentlig



2004 SESSION

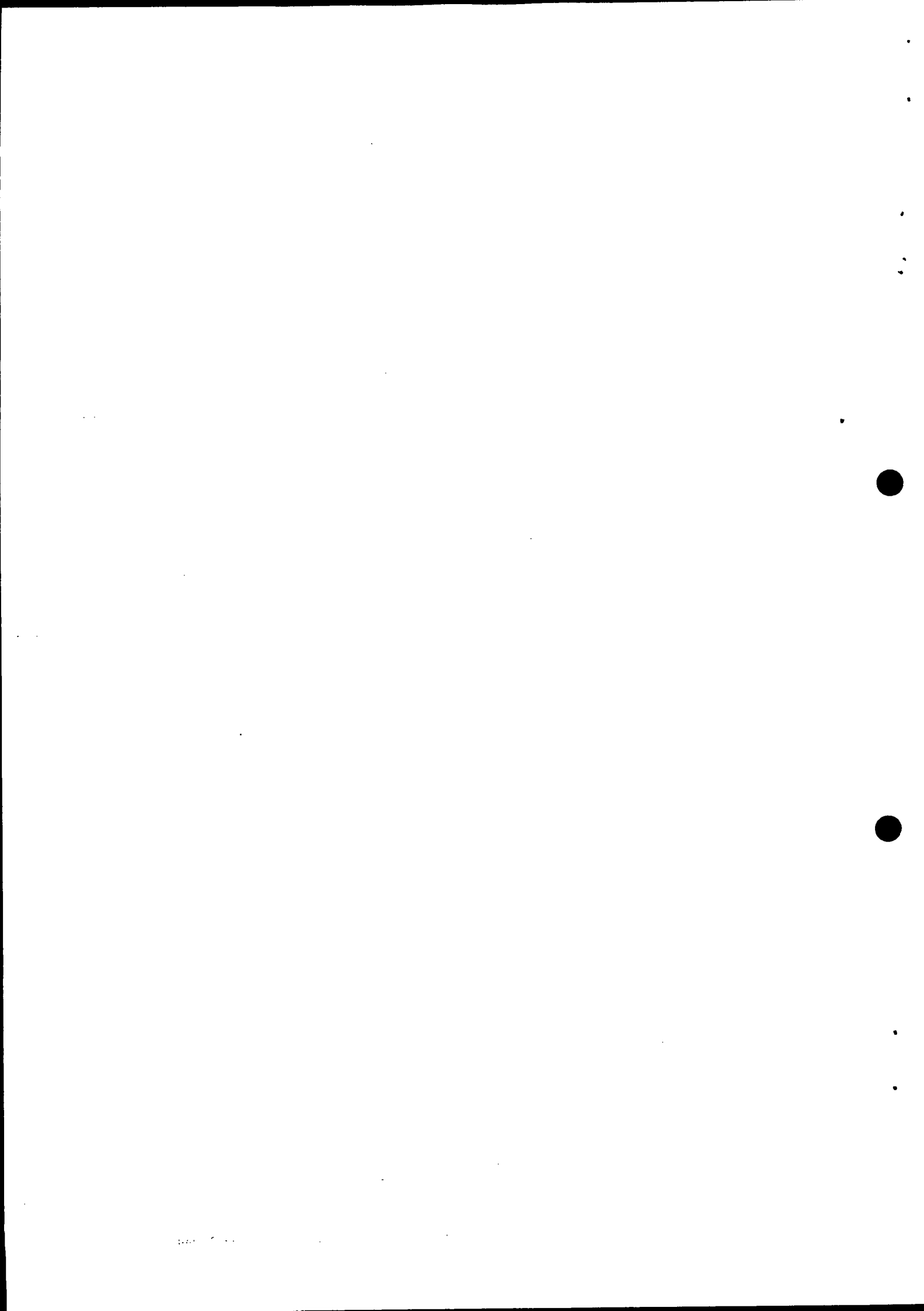
Fourth Part

4 – 8 October 2004

TEXTS ADOPTED

BY

THE ASSEMBLY



**List of texts adopted
by the Assembly
(4 – 8 October 2004)**

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European strategy for the promotion of sexual and reproductive health and rights

Recommendation 1675 (2004)¹

1. The Parliamentary Assembly of the Council of Europe refers to its Resolution 1399 (2004) on European strategy for the promotion of sexual and reproductive health and rights and recommends that the Committee of Ministers:
 - i. forward this Resolution to the governments of member states and request them to take it into account when developing their national strategy for sexual and reproductive health and rights;
 - ii design a comprehensive European strategy for the promotion of sexual and reproductive health and rights;
 - iii. instruct the appropriate committee, namely the European Health Committee, in co-operation with relevant European partners to:
 - a. promote an exchange of experiences between member states on successful national sexual and reproductive health approaches;
 - b. promote dialogue on sexual and reproductive health rights in public health policy and the advancement of sexual and reproductive health and rights from a European human rights perspective and address the development of new reproductive health technologies;
 - c. support the collection of comparable data and development of indicator regarding sexual and reproductive health;
 - d. develop guidelines to assist member states in drafting national sexual and reproductive health strategies.

¹ *Assembly debate* on 5 October 2004 (27th Sitting) (see Doc.10266, report of the Social, Health and Family Affairs Committee, rapporteur: Mrs McCafferty and Doc. 10310, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Zapfl-Helbling). *Text adopted by the Assembly* on 5 October 2004 (27th Sitting).



- xvii. the independence of the media from governmental structures, from economic monopolies, from oligarchic control or from any other non-transparent groups of interests;
- xviii. the defensive measures for the protection of democracy against non-democratic initiatives;
- xix. the level of the anti-corruption measures and their effectiveness;
- xx. the effectiveness of the policies against organised crime;
- xxi. the status of the prisoners and the quality of the conditions in prisons;
- xxii. the effectiveness of the anti-discrimination rules and regulations, including the rejection of any political, social and economic discrimination on an ethnic basis leading to political separatism and cultural segregation;
- xxiii. the effectiveness of civil control over public institutions (especially the military and the security services), as well as the transparency and the accountability of the bureaucracy.

10. The Assembly acknowledges that all the above criteria shall be applied and checked in all its member states, be they old, new or restored democracies, the democratic deficit threatening all of them as an equally important danger.

11. In order to avoid democratic formalism and to develop a vibrant and real democracy able to have an effective popular appeal, it is crucial to avoid double standards in assessing the democratic progress and at the same time to adapt methods for the evaluation of the possible democratic deficit in such a way as to reflect properly the variety of the cultural, historical and social environment within which democracy should grow.

12. Democracy is never perfect but always evolving towards perfection; democracy is not a mere set of laws and institutions but a way of thinking and living and therefore it should grow naturally being impossible to export it or to transfer it mechanically from one place into another; democracy is not immutable but in evolution.

13. The Assembly calls on the national parliaments of member states and civil society to support the stimulation of participatory democracy in Europe through the following action:

- i. major political projects should be discussed and defined in order to provide the public with political ideas and ideals for public debate;
- ii. politics should be re-socialised by addressing the major dividing lines and rifts in Europe, for instance in the social, cultural, economic or environmental sectors;
- iii. expertise and knowledge should become part of politics and political decision-making, in particular with regard to the social sciences;
- iv. the social tissue and cohesion of our societies should be strengthened by developing community spirit;
- v. a culture of conflict settlement should be supported, which ensures that differences of opinions and conflicts of interests could be settled through appropriate democratic means and processes;
- vi. political parties and organisations should seek to recruit members who reflect the differences in a society and have the capacity to define political ideas and communicate them to the public at large;
- vii. political parties should become more transparent and open to civil society and the different sectors in a society;
- viii. democratic decision-making should be decentralised and decisions should be taken as close as possible to the people concerned, which is of particular importance within the enlarged and reinforced European Union;

ix. the public should be provided with more possibilities of expressing differences, either for themselves as a form of individual freedom, or with regard to local, regional and national decisions through consultative and participatory processes.

14. In this context, the green paper on "The Future of Democracy in Europe – Trends, Analysis and Reforms", commissioned by the Secretary General of the Council of Europe in the framework of the integrated project "Making democratic institutions work" provides a basis for reflection for national parliaments and governments of member states.

15. The Assembly is determined to introduce a process of periodical reports on the state of democratic development, which allows each member and observer state to present updated information on democratic reforms and other measures undertaken.

16. The Assembly is also determined to embark into a dynamic dialogue and co-operation with other international organisations concerned as well as with the parliaments from non-member states, in order to promote, beyond its frontiers, its standards and democratic values while recognising everybody's right to have different opinions in accordance with the differences in the actual realities and traditions.



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New concepts to evaluate the state of democratic development

Resolution 1407 (2004)¹

1. The Parliamentary Assembly of the Council of Europe acknowledges that democracy is nowadays confronted with a dangerous crisis which could be seen in the low turn out at elections, lack of interest and low participation of citizens in public life, decreasing respect for and confidence in political parties and politicians and the tendency to elect managers instead of leaders, technocrats instead of policymakers, entertainment stars instead of statesmen.
2. The entire democratic deficit and those negative developments make the classic concepts of democratic rights and freedoms insufficient and speak for the need of introducing new concepts. The globalisation process amplifies the shortcomings of democratic systems and makes them fragile in the face of trans-national phenomena.
3. While the principles of democracy, the rule of law and human rights are considered universal, their models are only indicative. The same values seeded in different cultural, social, historical and geographical environments might give birth to a large variety of public behaviors. On the other hand, the same or compatible democratic targets could be reached by following different political roads and starting from different social and cultural backgrounds.
4. The commitment to democratic standards is one of the fundamental requirements for every member state of the Council of Europe. Accession to the Council of Europe is preceded by a close scrutiny of the state of democracy and of all national legislation as well as the functioning of democratic institutions and the judicial system.
5. Democratic reform and development can only be sustainable when it is based on a full integration of democratic norms and practices into the administrative, political and judicial systems, including the normative standards as well as their implementation in the daily practice at an operational level.
6. The Assembly is aware that the state of democratic development is not sufficient in member states, as it has been indicated by the Council of Europe's monitoring procedures. It is thus necessary to combine these monitoring procedures with an active assistance to, and co-operation with, all member states. The logic of monitoring should be replaced or at least coupled with the logic of partnership.
7. The Assembly will continue to actively co-operate with the Committee of Ministers and the Congress of Local and Regional Authorities of the Council of Europe in order to achieve greater synergies for the Council of Europe by exploiting the specific resources and experiences of each of these bodies with regard to the evaluation of democratic development.

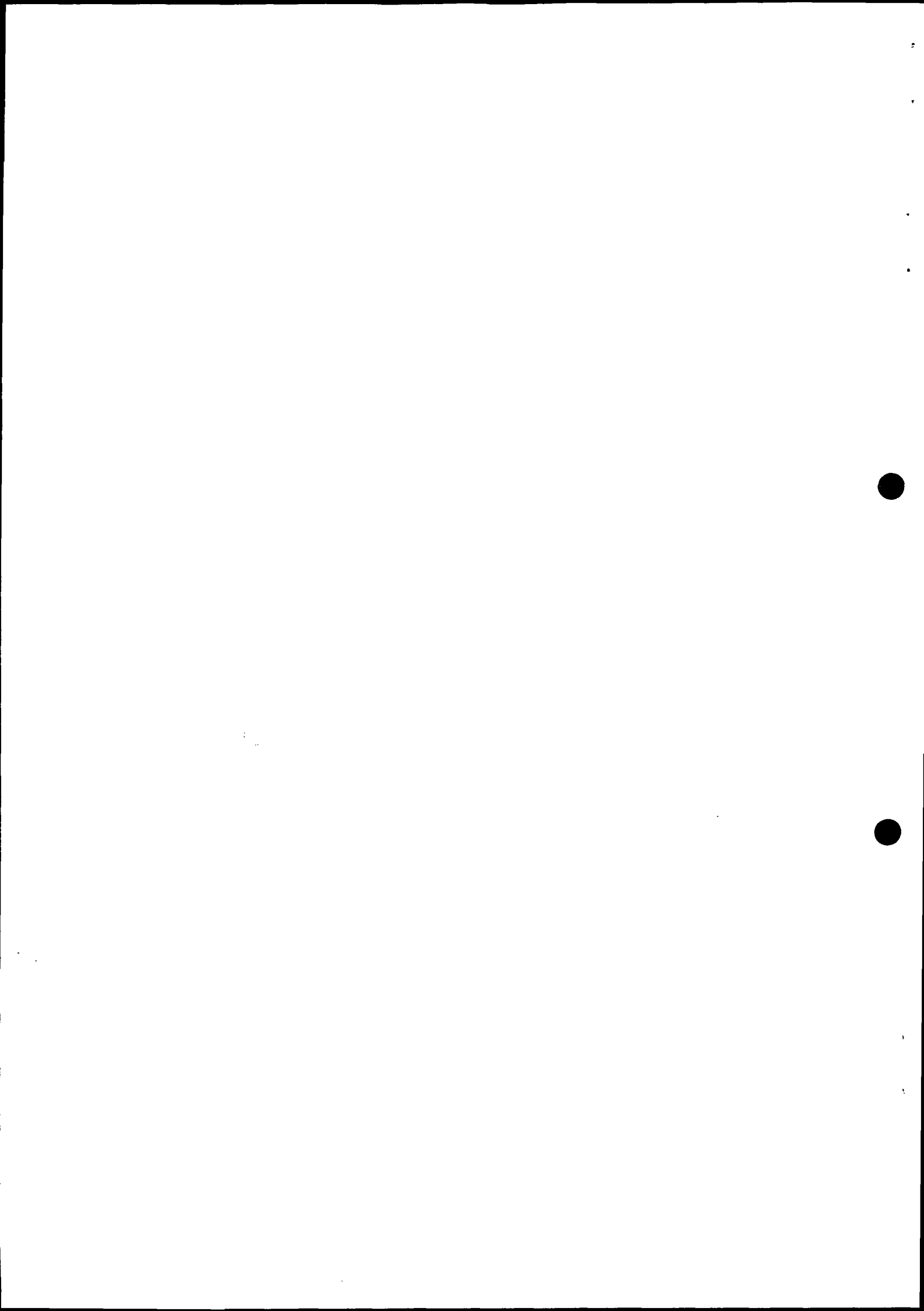
¹ *Assembly debate on 8 October 2004 (32nd Sitting)* (see Doc.10279, report of the Political Affairs Committee, rapporteur: Mr Severin). *Text adopted by the Assembly on 8 October 2004 (32nd Sitting)*.

8. One of the main themes of the Conference of Speakers and Presidents of European Parliaments (Strasbourg, 18-19 May 2004) was "How democratic is our Democracy". The appeal, contained in the conclusions of the Conference, to national parliaments to exchange information in this field deserves the full support of the Assembly.

9. Democratic development in Europe must be determined by various factors which may have a different weight depending on the historic, geographic, demographic, cultural, social and economic circumstances of a country. In this context, the Assembly believes that the following catalogue – to be added to the traditional democratic standards of the Council of Europe, such as the various individual freedoms, free and fair elections, the separation of powers, the checks and balances of the states' institutions, etc. - should constitute the parameters for the evaluation of the democratic development in a given country:

- i. the transparency of governmental action and administration;
- ii. the accountability of decision-making bodies towards the public.
- iii. the openness of political decision-making processes to the public;
- iv. the possibilities and the degree of motivation for the citizens to effectively participate in the decision-making process;
- v. the possibility for foreign nationals who have resided in a state to acquire gradually all the rights of citizenship, including that of participating in regional and local political decision-making processes;
- vi. the level of political action by the public outside parliament and its impact on the functioning of parliament as the forum for democratic debate and decision-making;
- vii. the development of the civic society and the extent to which the civic society's structures and entities are neither controlled by the state nor acting as disguised opposition parties lacking democratic legitimacy;
- viii. the secular character of the state, meaning that the state should stay at equal distance towards all religions and confessions, including the agnostic; this does not prevent certain elements of the spiritual and material culture of the traditional religions of the state's population from being considered an important part of national culture;
- ix. the development of political pluralism and the way in which parties are financed and function;
- x. the development of civic multiculturalism associating the equality of the citizens and their equal loyalty to their common state (the civic nation) with the respect for diversity and intercultural coexistence (multiculturalism as a multidimensional complex social tissue) ;
- xi. the capacity to aggregate national democracy with local, regional, non-national, trans-national and global ones;
- xii. the general level of economic development of a society;
- xiii. the development of the middle class compared to an economic polarisation of a society;
- xiv. the quality of the status of minorities including those measures of positive discrimination allowing them to feel as having equal chances with the majority and granting them full opportunities to be integrated in the given society without losing their identity;
- xv. gender equality in the participation in democratic decision-making processes;
- xvi. subsidiarity as a vertical decentralisation in governmental and administrative action, regional and local self-administration while preserving the cohesion of the state, together with a horizontal decentralisation in sharing the burden of the social order between the state institutions and the society's structures;

vii. finally, launch information campaigns throughout the national media of all member states aimed at building awareness of the current state of the environment, the scale of the global warming phenomenon and the promotion of responsible policies and conduct by all citizens and industries.





Provisional edition

Global warming: beyond Kyoto

Resolution 1406 (2004)¹

1. Global warming is one of the most serious challenges to the sustainable development of our planet and ultimately for the survival of humankind, especially as it threatens vital resources or spheres such as environment, food, health, economic activity, peace and security. It therefore requires a joint, responsible and solidarity-based response from the international community, including relevant machinery for framing measures aimed at averting the negative effects of climate change on the economy and populations and helping countries to adapt to this change.
2. The Parliamentary Assembly of the Council of Europe reiterates its ongoing commitment to sustainable development and, in particular, its backing of the United Nations Framework Convention on Climate Change aimed at stabilising atmospheric greenhouse gas concentrations as outlined in the Kyoto Protocol.
3. It refers inter alia to its Resolutions 1243 (2001) on the Kyoto Protocol on climate change and 1292 (2002) on the World Summit on Sustainable Development: ten years after Rio, as well as to its Recommendation 1594 (2003) on follow-up to the World Summit on sustainable development.
4. In this connection, the Assembly welcomes the signing of the Kyoto Protocol but is concerned to see that its implementation has been delayed owing to the lack of agreement from a minority of countries, most notably the United States.
5. The Assembly welcomes the adoption by the European Parliament and the Council of the European Union, on 13 October 2003, of the Climate Directive, setting an overall threshold for greenhouse gas emissions, in tandem with a market in greenhouse gas emission allowances. The Assembly invites those European Union Member States not yet having done so to submit their national allocation plans to the Commission as soon as possible so that the Climate Directive may enter into force on 1 January 2005.
6. The Assembly notes that emissions from industrialised countries rose by 13.6% between 1990 and 2001. It is thus vital that the international community commits itself to cutting greenhouse gas emissions and assumes its responsibility for providing present and future generations with a viable and healthy environment.
7. Moreover, at a time when the energy needs of countries such as Brazil, China, India and other rapidly developing countries are expanding in step with their development, the increasing recourse to hydrocarbons and problems relating to world energy needs and supplies constitute grounds for reducing our own dependency upon fossil fuels and other sources of pollution of greenhouse gas emissions before the end of the century.

¹ *Assembly debate on 7 October 2004 (31st Sitting) (see Doc. 10277, report of the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mr Meale). Text adopted by the Assembly on 7 October 2004 (31st Sitting).*

8. The Assembly is concerned about the possible proliferation of international flashpoints and the threat of wars over the growth of states overly dependant upon dwindling hydrocarbon resources, likely to be exhausted by the end of the century.

9. It believes it vital to promote the development of and access to renewable energies as a priority. Further, it points out that whilst such energy sources are largely local, other energy markets tend to be part of global operations.

10. The Assembly believes that renewable energies would help to eradicate or significantly reduce the poverty and energy dependency of developing countries, a great many of which having access to abundant supplies of such commodities. It therefore believes that it lies with advanced industrialist nations, those largely responsible for greenhouse gas emissions, to help other developing countries by sharing their technologies and know-how in order to help them achieve economic and environmental sustainability.

11. It stresses that governments and their parliaments, the driving forces in societal change, have a crucial role to play in global awareness-building as well as for ensuring the security and well-being of their populations. It thus warns against forces which often attempt to steer their own minority interests to the forefront to take precedence over the rights and interests of humanity.

12. In relation to the cost of implementing the Kyoto Protocol, this Assembly recognises that the costs may have a real impact on countries' economies and that it is therefore necessary to pool efforts to find ways of minimising those costs and also approaches that are acceptable to the countries and that make it possible to overcome the cost issues and contribute to the sustainable development of each country. However, the Assembly reiterates its belief that the costs of non-action are vastly underestimated, consequences, such as extreme meteorological conditions caused by global warming, being disastrous for those nations affected.

13. Consequently, the Assembly invites its member and observer states, to sign and ratify the Kyoto Protocol without delay.

14. The Assembly also invites the governments and parliaments of the member states of the Council of Europe to:

- i. swiftly implement the objectives of the Kyoto Protocol ratified by them, inter alia by giving and honouring specific undertakings aimed at significantly reducing greenhouse gases;
- ii. take legislative measures and adopt tax reforms in the energy sectors, aimed at penalising fossil fuel consumption whilst encouraging the use of renewable energies and identifying new alternative energy sources;
- iii. rationalise their transport policies by:
 - a. developing public transport and supporting the development of hybrid vehicles;
 - b. promoting freight transport by rail, sea, waterways and road-rail networks via the offering of greater incentives to those using them;
 - c. controlling the development of air transport, in particular by taxing kerosene;
 - d. applying tax systems which take into account the costs of transport and energy costs of any industrial location/relocation;
- iv. adopting the necessary regulations required to cut energy consumption in the construction and renovation of housing, in particular the imposition of higher standards for insulation or the use of energy resources;
- v. rethinking the areas of agriculture and sylviculture with a view to reducing greenhouse gases, in particular methane and nitrogen protoxyde emissions, whilst increasing CO₂ absorption;
- vi. introducing legislation necessary to encourage renewable energy use at all levels: the development of research towards this objective promotion of industrial innovation, consumer accessibility, tax incentives, etc;

ii. improvements to conditions of detention and, in that connection, the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);

iii. the developments in the media sector in Armenia: it expects that, on the basis of the recent amendments to the Law on radio and television, the composition of the National Broadcasting Commission will be renewed as soon as possible and that fair conditions for awarding broadcasting licenses to televisions, in particular to A1+ television channel, will be created;

iv. the excessive length of the period of alternative civilian service, which has been set at 42 months;

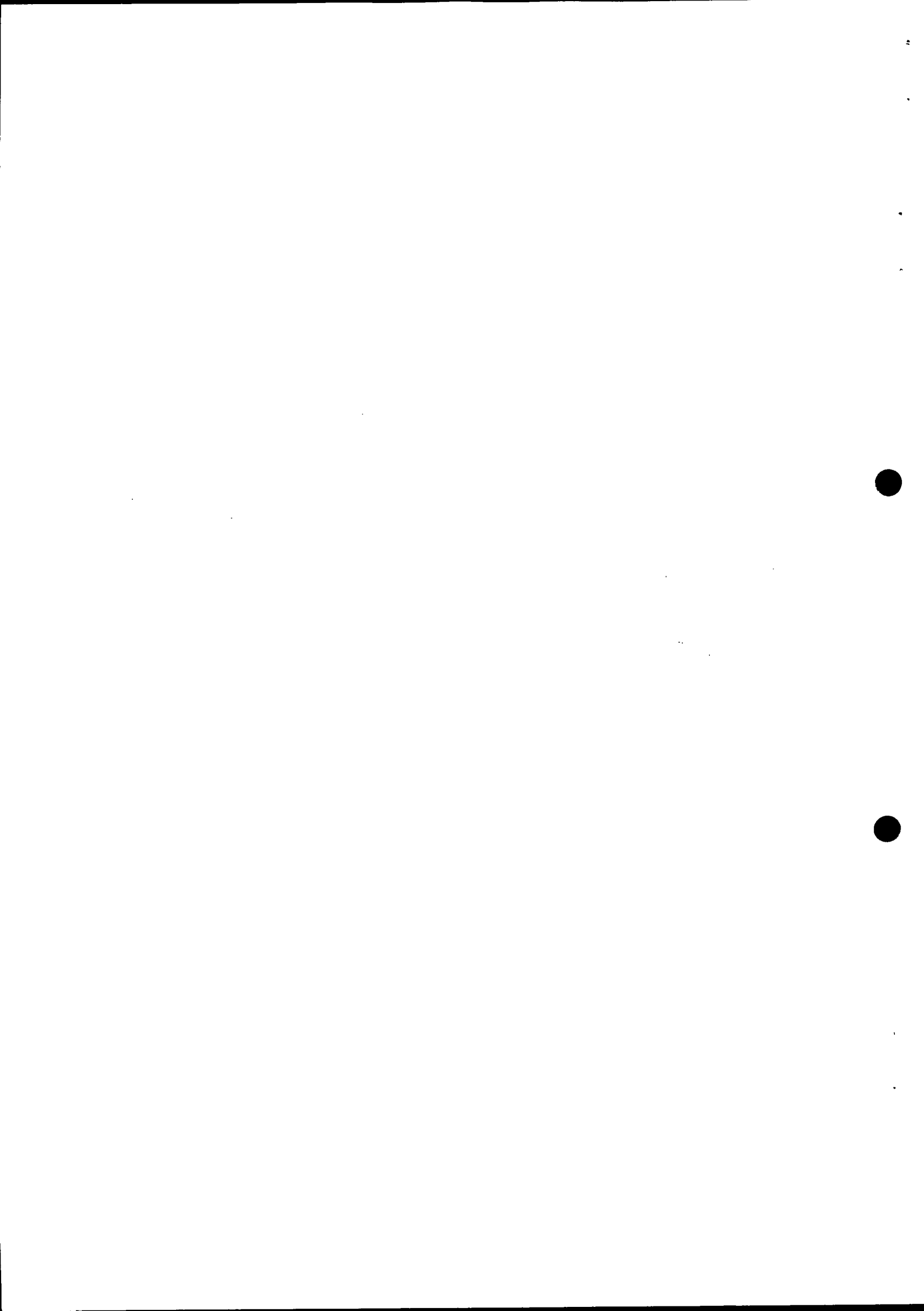
v. the registration of the association of Jehovah's Witnesses;

vi. the creation of an independent body representing all Armenia's religious organisations and communities;

vii. in accordance with Resolution 1374 (2004), paragraph 9.iv, the end to the practice of administrative detention until the Administrative Code is amended;

viii. the amendment, no later than March 2005, of the law on demonstrations and public assemblies to bring it into full conformity with Council of Europe standards to ensure freedom of assembly in practice.

12. In the light of the foregoing, the Assembly calls on the Armenian authorities to continue to take appropriate measures to honour the remaining obligations and commitments set out in Resolutions 1361 (2004) and 1374 (2004).





Provisional edition

Implementation of Resolutions 1361 (2004) and 1374 (2004) on the honouring of obligations and commitments by Armenia

Resolution 1405 (2004)¹

1. Armenia was the subject of Assembly debates on its democratic future on 27 January 2004 and 28 April 2004 respectively and the country embarked upon further reforms following Resolutions 1361 (2004) and 1374 (2004).
2. The Parliamentary Assembly expresses satisfaction at its excellent co-operation with the Armenian authorities, their open-minded attitude and the quality of the ongoing dialogue on compliance with obligations and commitments.
3. The Assembly is pleased to note that Armenia has complied with the request to submit a report on paragraphs 9.i to 9.vi of Resolution 1374 (2004) and takes note that :
 - i. authorities have refrained from interfering with the conduct of assemblies and, after the law "On gatherings, assemblies, rallies and demonstrations" entered into force, a legal basis has been established for holding them only by notification;
 - ii. the Constitution guarantees freedom of movement and laws provide for maintenance of public order;
 - iii. the investigations on the incidents and human rights abuses reported during the recent events, including assaults on journalists and human rights activists, were led and information was provided to the Assembly on a case of legal action against persons responsible for assaults against journalists;
 - iv. the persons detained for their participation in the demonstrations were released and an end to the practice of administrative detention is expected as the Administrative Code is in the process of being amended;
 - v. in this period one frequency has been freed, without contest, on the basis of an intergovernmental agreement and within the framework of the law "On Television and Radio", a frequency which was given to the Russian "Kultura" TV Channel for rebroadcasting;
 - vi. the authorities have taken note of the fact that the immunities of members of the Parliamentary Assembly of the Council of Europe are valid for the whole year (Resolution 1325 (2003) and Recommendation 1602 (2003)).

¹ *Assembly debate* on 7 October 2004 (31st Sitting) (see Doc. 10286, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr André and Mr Jaskiernia). *Text adopted by the Assembly* on 7 October 2004 (31st Sitting).

4. Despite Armenia's declared wish to reach a peaceful solution with Azerbaijan to the Nagorno-Karabakh situation, the Assembly is forced to conclude that no tangible progress has been achieved for the past year, whether at the level of the direct talks between the presidents of the two countries, which are continuing, or at the level of the Minsk Group.
5. The Assembly recalls that it had asked for a thorough investigation into electoral fraud in the 2003 elections and for an end to the judicial impunity of those responsible. In this connection, the Assembly considers that it has not received a convincing reply from the authorities. It is confident, however, that the process of revising the Electoral Code will soon be completed, in keeping with the recommendations of the Venice Commission.
6. It notes that legislative measures have been taken in order to introduce into the Criminal Code a provision on conditional release for all persons convicted of serious offences, including persons with life sentences.
7. It notes that the constitutional revision needed to ensure that certain commitments are fully honoured is making good progress. It asks that the authorities should rapidly prepare draft amendments to the Constitution, present them to the Council of Europe in 2004 for expert appraisal and organise a referendum as soon as possible and in any event by June 2005 at the latest.
8. The Assembly takes note of the timetable for effective implementation of the basic reforms concerning the judicial system and the independence of the judiciary and of the intention to adopt the law on the status of judges, the law on the judicial council and the law on the judiciary before the end of 2004.
9. The Assembly notes that the last amendments to the Law on Radio and Television request that the National Broadcasting Commission should add arguments when awarding broadcasting licenses, thus preventing the adoption of arbitrary decisions.
10. With regard to its other requests, the Assembly notes the steps taken to:
 - i. continue discussion of the question of administrative detention in the Administrative Code in co-operation with the Council of Europe's experts in order to end administrative detention;
 - ii. adopt a law on demonstrations and public assemblies in co-operation with the experts of the Council of Europe and the Venice Commission;
 - iii. amend the Criminal Code in order to introduce the possibility of conditional release for prisoners serving life sentences;
 - iv. revise, in co-operation with the Council of Europe's experts and with due regard to the recommendations already made and those yet to be made, Articles 135, 136 and 318 of the Criminal Code in order to remove any possibility of making insult and defamation subject to a prison sentence ;
 - v. revise the law on the police in co-operation with the Council of Europe's experts;
 - vi. adopt a law on the status of Yerevan, a law on territorial autonomy, a law on local government staff and a law on local self-government;
 - vii. combat corruption and sign the Civil Law Convention on Corruption; it asks that this Convention be ratified within the shortest possible time;
 - viii. grant an amnesty to conscientious objectors who are serving prison sentences and release those who refused to perform military service.
11. Furthermore, the Assembly is expecting rapid progress concerning:
 - i. the revision of the Code of Criminal Procedure, in accordance with the standards of the Council of Europe;

ii. the Council of Europe Development Bank to examine ways in which it could contribute to a long-term reconstruction plan for Chechnya;

iii. the Congress of Local and Regional Authorities of the Council of Europe to examine the possibilities of supporting Chechen refugees and displaced persons through partnership between European towns and the North Caucasus municipalities particularly with those hosting IDPs.

13. The Assembly endorses the efforts by the Committee on Migration, Refugees and Population and the Secretariat of the Parliamentary Assembly of the Council of Europe to use their good offices to expedite the convening of a consultative conference with the participation of non-governmental organisations, international humanitarian organisations and relevant governmental, intergovernmental authorities to review how all necessary resources for the rehabilitation and reconstruction of the Chechen Republic can best be mobilised and effectively used.

14. The Assembly reiterates its support for the activities of the International Committee of the Red Cross in favour of those persons deprived of their freedom linked to the situation in North Caucasus.



Provisional edition

The humanitarian situation of the Chechen displaced population

Resolution 1404 (2004)¹

1. The Assembly refers to its Resolution 1402 (2004) and Recommendation 1678 (2004) on the political situation in the Chechen Republic: measure to increase democratic stability in accordance with Council of Europe standards and to its Resolution 1403 (2004) and Recommendation 1679 (2004) on the human rights situation in the Chechen Republic.
2. The Assembly stresses the importance of humanitarian aspects of the conflict in Chechnya which should be dealt with irrespective of political considerations. In particular, the situation of refugees and internally displaced persons (IDPs) remains very precarious. As a result of the conflict, there are still between 30 000 and 50 000 displaced persons from Chechnya in Ingushetia and some thousands of such people in other parts of the Russian Federation. The majority of those who have returned to Chechnya have been unable to come back to their homes.
3. The Assembly is concerned by the information of many non-governmental organisations that, despite its recommendations, undue pressure has been often used by the authorities in order to encourage the Chechen internally displaced persons staying in Ingushetia to return to Chechnya even if the security and humanitarian situation in the Republic remains extremely complicated.
4. The Assembly notes that all of the refugee camps located in Ingushetia with unsatisfactory and sometimes dramatic conditions are closed.
5. The humanitarian situation of internally displaced persons in Ingushetia is particularly worrying after the terrorist incursion of 21/22 June 2004 and the Assembly calls on the Russian authorities to ensure that the internally displaced persons are not unduly persecuted and intimidated by the security forces.
6. The Assembly welcomes the efforts of the Ingush authorities aimed at the normalisation of the conditions of refugees, in particular with regard to construction of special cottage settlements (villages) intended for the Chechens.
7. The Assembly notes with concern that the vestiges of *propiska* (residence permit) seriously hamper the principles of freedom of movement and liberty to choose one's place of residence within the country.
8. Regrettably, the security and humanitarian situation in the Chechen Republic remains unsatisfactory. Many of those who return live in precarious conditions and the infrastructure, including health and education services, remains inadequate despite certain progress. Access to humanitarian assistance is hampered by security constraints and some bureaucratic obstacles. However, the development of the process of paying compensation to the families who lost their houses and property should be noted.

¹ *Assembly debate* on 7 October 2004 (30th Sitting) (see Doc.10282, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Iwiński). *Text adopted by the Assembly* on 7 October 2004 (30th Sitting).

9. The Assembly recognizes the efforts undertaken by the Russian authorities in order to advance the reconstruction of the destroyed Republic. However, according to numerous allegations, there is a continuous problem of accountability and control over spendings.

10. The Assembly urges the Russian authorities to:

- i. refrain from any kind of pressure on the Chechen internally displaced population in order to make them return to the Chechen Republic;
- ii. maintain humanitarian assistance to the Chechen IDPs outside Chechnya, in particular in Ingushetia;
- iii. ensure that all operations, including "special" and "targeted" operations, "interrogations and searches of individual houses carried out by the police and military agencies following the terrorist incursion of 21/22 June 2004 are conducted in a correct manner that protects and respects human rights;
- iv. review legislation and administrative practices in order to ensure freedom of movement and freedom to choose one's place of residence within the Russian Federation;
- v. review the legislation concerning status and social benefits provided to internally displaced persons;
- vi. implement in a more effective way the mechanism for compensation for lost housing and property;
- vii. increase the efforts aimed at the improvement of security in the region, while at the same time ensure accountability of the federal armed forces, and the protection of human rights;
- viii. increase the reconstruction effort and the humanitarian assistance and to subject it to more effective and transparent accountability and control;
- ix. remove still existing bureaucratic obstacles and simplify regulations concerning access and actions of the humanitarian agencies in the Chechen Republic and in Ingushetia, in particular to reconsider restrictive measures in issuance to NGOs of permits for carrying-out and monitoring relief projects, clearance and procedures at check-points, as well as authorization to use radio frequencies for communications;
- x. improve the conditions of living in so-called temporary accommodation centres (TACs);
- xi. consider joining the Council of Europe Development Bank with a view to benefiting from the financial opportunities offered by it for the reconstruction of Chechnya.

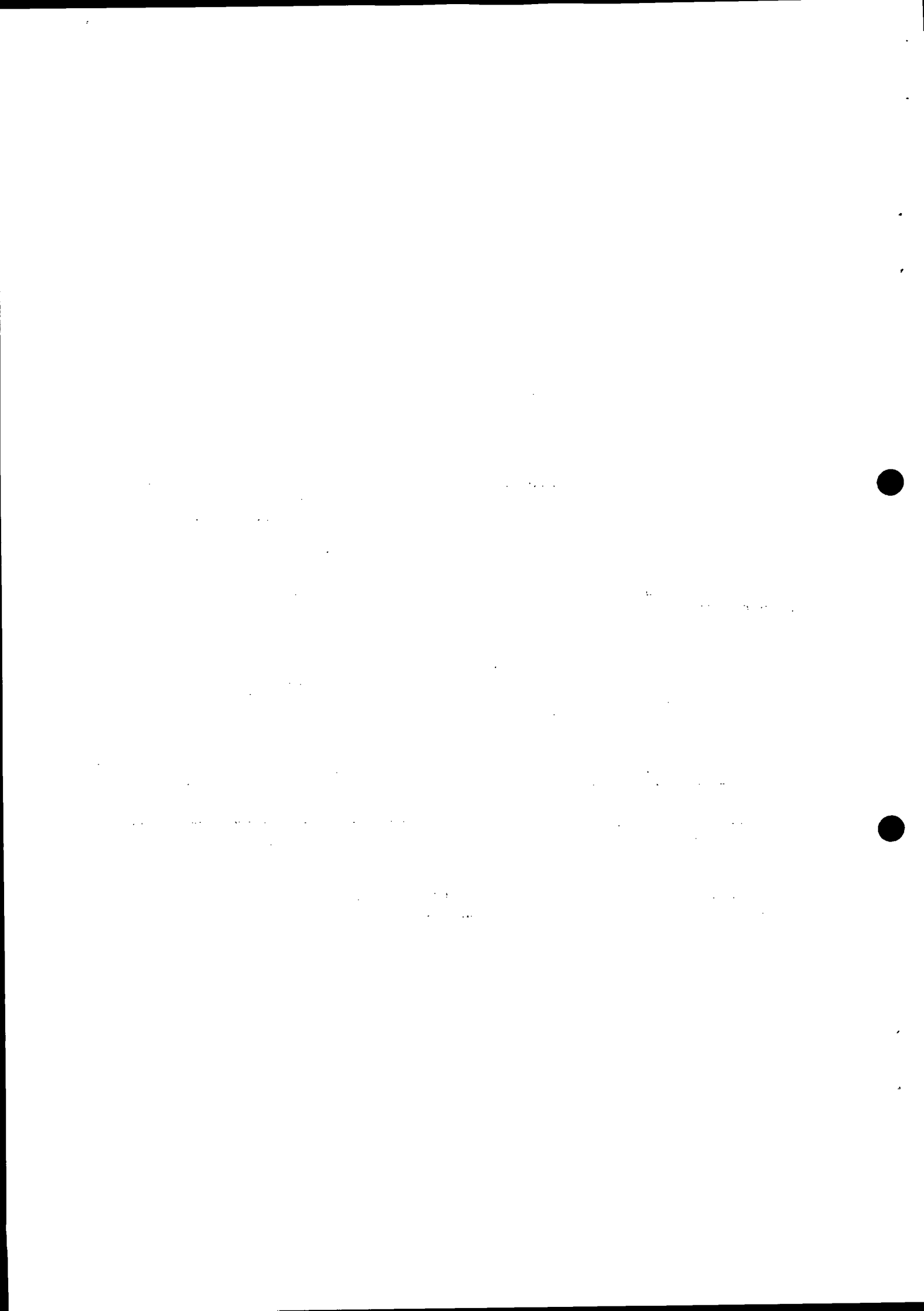
11. The Assembly calls on Council of Europe Member States to:

- i. maintain assistance to IDPs in Chechnya and Ingushetia;
- ii. step up financial contribution for reconstruction of Chechnya;
- iii. promote the development of the civil society in Chechnya;
- iv. ensure fair status determination procedure for every asylum seeker from Chechnya;
- v. ensure that refugees who have fled the conflict are not returned to Chechnya or other parts of the Russian Federation unless and until their safe and durable return with dignity is ensured.

12. Furthermore, the Assembly calls on:

- i. the Council of Europe Commissioner for Human Rights to continue monitoring the human rights situation of Chechen IDPs in the Russian Federation;

- e. by enabling systematic monitoring by national and international human rights organisations of human rights violations as well as of the measures taken by the competent authorities to track down and punish perpetrators;
 - f. by fully co-operating with all Council of Europe mechanisms, in particular with the Committee for the Prevention of Torture;
 - g. by taking effective measures in order to prevent any reprisals to any person in relation to the filing of an application to the European Court of Human Rights, ensuring that all allegations of such crimes are investigated promptly, thoroughly and independently and that all persons found responsible for such crimes are brought to justice;
 - h. and by facilitating access to the region by the national and international news media;
 - ii. urges the Government of the Russian Federation to ensure that anti-terrorism measures taken or planned are in conformity with standards of human rights and humanitarian law, including the European Convention on Human Rights, the Geneva Conventions and the Council of Europe Guidelines on Human Rights and the Fight against Terrorism;
 - iii. urges the Russian State Duma to set up, as a matter of urgency, a parliamentary committee of inquiry to investigate the alleged abuses by different branches of the executive, in particular the different law enforcement bodies in the Chechen Republic and in neighbouring regions such as Ingushetia, including the apparent dysfunctioning of the military prosecutor's office in charge of the region;
 - iv. urges the member states of the Council of Europe to :
 - a. use every opportunity, in their bilateral and multilateral relations with the Russian Federation, to recall the need to respect human rights also in the fight against terrorism and separatism ;
 - b. continue applying the Geneva Convention relating to the Status of Refugees in granting political asylum to applicants from the Chechen Republic, recalling that local human rights activists, lawyers and relatives of suspected independence fighters are among those most vulnerable to disappearance, torture and other most serious human rights abuses;
 - v. supports the recommendation made by the Committee for the Prevention of Torture (CPT) in its Public Statement of 10 July 2003 that members of the federal forces and law enforcement agencies be reminded, through a formal statement emanating from the highest political level, that they must respect the rights of persons in their custody, that any violations will be the subject of severe sanctions and urges the Russian authorities to authorise without further delay publication of all reports of visits to the North Caucasus region by CPT experts;
 - vi. welcomes the positive trend towards the establishment of regional ombudsmen in the Russian Federation and the initiative by the Commissioner for Human Rights of the Council of Europe and the Ombudsman for Human Rights of the Russian Federation to promote the establishment of a regional ombudsman for the Chechen Republic.
15. The Assembly decides to remain seized on this issue.





Provisional edition

The human rights situation in the Chechen Republic

Resolution 1403 (2004)¹

1. The Parliamentary Assembly stresses that the protection of human rights is the primary objective of the Council of Europe and it therefore solemnly condemns all criminal acts constituting serious human rights violations committed by all sides of the conflict in the Chechen Republic.

2. This includes in particular the recent spate of despicable terrorist attacks beginning with the downing of two airliners on 24 August 2004, the attack by a suicide bomber near Rizhskaya station in Moscow on 31 August 2004 and finally the hostage-taking of hundreds of innocent children and their family members in Beslan and the horrific bloodbath on 3 September 2004. There can be no excuse whatsoever for any such attacks on innocent civilians.

3. The Assembly also unequivocally condemns all other killings by illegal armed formations, such as that on 9 May 2004 of the President of the Chechen Republic, Akhmad Kadyrov, also causing other victims, and the numerous deaths involved in the co-ordinated attacks by armed fighters in Ingushetia, the Chechen Republic and Dagestan on 22 June 2004 and a similar large-scale attack in Grozny on 20 August 2004. Both the death of innocent bystanders and the "targeted" killings of persons considered by terrorists as responsible for crimes left unpunished are totally unacceptable. The conflict in the Chechen Republic must be resolved by negotiation and criminals on all sides must receive their just punishment through appropriate judicial procedures.

4. The Assembly also strongly condemns the numerous violations of human rights in the form of murder, forced disappearance, torture, hostage-taking, rape and arbitrary detention committed by members of different Federal and pro-Russian Chechen security forces during their "special" or "targeted" operations in the Chechen Republic and, increasingly, in neighbouring regions.

5. As recent events show, the human rights situation in the Chechen Republic is far from normal. Whilst the reconstruction of some social infrastructures and the promise of the payment of compensation to persons whose houses were destroyed is a positive factor, real economic development requires trust between the Government and the people. The Assembly continues to believe that there can be no peace and no sustainable political settlement in the Chechen Republic without the ceasing of the above-mentioned human rights violations from all sides, and without the bringing to justice the perpetrators of at least the most serious human rights violations, including of course terrorist acts, and without ensuring that no further such violations will be committed in future.

6. The dramatic human rights situation in the Chechen Republic described in the texts adopted by the Assembly in April 2003 has unfortunately not improved significantly since then. The number of "special operations" or "sweeps" by security forces has in fact significantly decreased, in particular since the end of 2003. But arbitrary detentions, often followed by the "disappearance", torture or severe beatings of detainees and the theft or destruction of property at the hands of security forces (Chechen and Federal) but also of certain rebel groups, are still occurring on a massive scale, especially as seen against the background of the small population of the Chechen

¹ *Assembly debate on 7 October 2004 (30th Sitting)* (see Doc.10283, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig). *Text adopted by the Assembly on 7 October 2004 (30th Sitting)*.

Republic and the losses already suffered in previous years. A new frightening trend is that of hostage-taking of relatives of suspected terrorists in order to force them to give themselves up by threatening their relatives with torture and murder. Such methods are totally unacceptable criminal acts that must be stamped out by the Federal and Chechen authorities.

7. The constitutional referendum of March 2003 and the elections for the Chechen President in October 2003 and August 2004 have given rise to new types of violations of the European Convention on Human Rights (ECHR) which now also concern the people's right to free elections (Article 3 of Protocol No 1 to the ECHR) and to freedom of expression (Article 10 of the ECHR).

8. The climate of impunity diagnosed by the Assembly in Resolution 1323 (2003) and Recommendation 1600 (2003) appears to be spreading to Ingushetia, where a number of abuses took place in 2003 and early 2004 that are reminiscent of those taking place in the Chechen Republic and which have remained largely unpunished. The conflict in the North Caucasus appears to be spreading like an epidemic, threatening the rule of law throughout the Russian Federation.

9. Regarding the elucidation of the crimes described in the report underlying Resolution 1323 (2003) and Recommendation 1600 (2003), very little progress has been made and new crimes committed in the meantime have not been met with any more successful action by the Chechen and Federal prosecutors.

10. As regards 2003 and the beginning of 2004, detailed information was requested from the Russian authorities as regards prosecution activities. The replies received from official sources, whilst incomplete and in part contradictory, show that there is little progress in the prosecution of perpetrators of human rights violations by the national law enforcement bodies.

11. The Assembly is outraged that serious crimes have been committed and have not yet been elucidated against applicants and family members of applicants to the European Court of Human Rights. Such acts are totally unacceptable as they may deter applications to the Court, which is the centrepiece of the human rights protection mechanism established by the European Convention on Human Rights.

12. The preventive measures recommended by the Council of Europe Commissioner for Human Rights, in particular as regards the modalities of special operations or "sweeps" carried out by security forces, such as the effective identification of all participants in such operations and the rapid and strict prosecution of any violations of the rules, have yet to be implemented.

13. Consequently, the conclusions drawn by the Assembly in Resolution 1323 and Recommendation 1600 (2003) remain valid: a climate of impunity is prevailing in the Chechen Republic due to the fact that the Chechen and Federal law enforcement authorities are still either unwilling or unable to hold accountable for their actions the vast majority of perpetrators of serious human rights violations.

14. The Assembly therefore, reiterating its exhortations in paragraphs 9 and 10 of Resolution 1323 (2003),

i. urges the Government of the Russian Federation to take additional measures to eliminate the climate of impunity in the Chechen Republic,

a. by vigorously investigating and prosecuting all violations of human rights, without regard to the identity of the perpetrators;

b. by implementing the recommendations of the Council of Europe Commissioner for Human Rights;

c. by sending a clear signal from the highest political level that all security and law enforcement officials must respect human rights in the execution of their duties at all times;

d. by providing reparation, including compensation, to victims of human rights abuses;

The Assembly reaffirms its belief that public confidence and support can only be established by a government which respects human rights, democracy and the rule of law.

17. The Assembly hopes that the parliamentary elections in the Chechen Republic planned for early 2005 will provide the necessary legitimacy. But it is convinced that if these elections are to provide such legitimacy, it will be essential to significantly improve the human rights and security situation. All authorities involved in the preparation and organisation of these elections should respect the standards on democratic elections commonly recognised by all member states of the Council of Europe. All political forces in Chechnya should solicit their popular support by participating in these elections and all citizens of Chechnya should be encouraged to express their political choice by voting.

18. There is an alarming and widespread speculation about considerable levels of corruption and misappropriation of public funds in the Chechen Republic. Where such criminal behaviour has reached a high level of organisation and intensity, criminal structures will become a threat to the authority of state organs and the state as such. The competent authorities should, therefore, step up their efforts in fighting corruption and organised crime. They should be guided by the respective Council of Europe Conventions in this field.

19. The Assembly calls on the Russian Federation to:

- i. accede to the Council of Europe's Agreement establishing the Group of States against Corruption (GRECO) as a sign of its political determination to fight corruption and organised crime;
- ii. recognise and strengthen the use of the Chechen language in public life in Chechnya.

20. The Assembly urges the Russian government to ensure that anti-terrorism measures taken or planned are in conformity with standards of human rights and humanitarian law, including the European Convention on Human Rights, the Geneva Conventions and the Council of Europe Guidelines on Human Rights and the Fight against Terrorism.

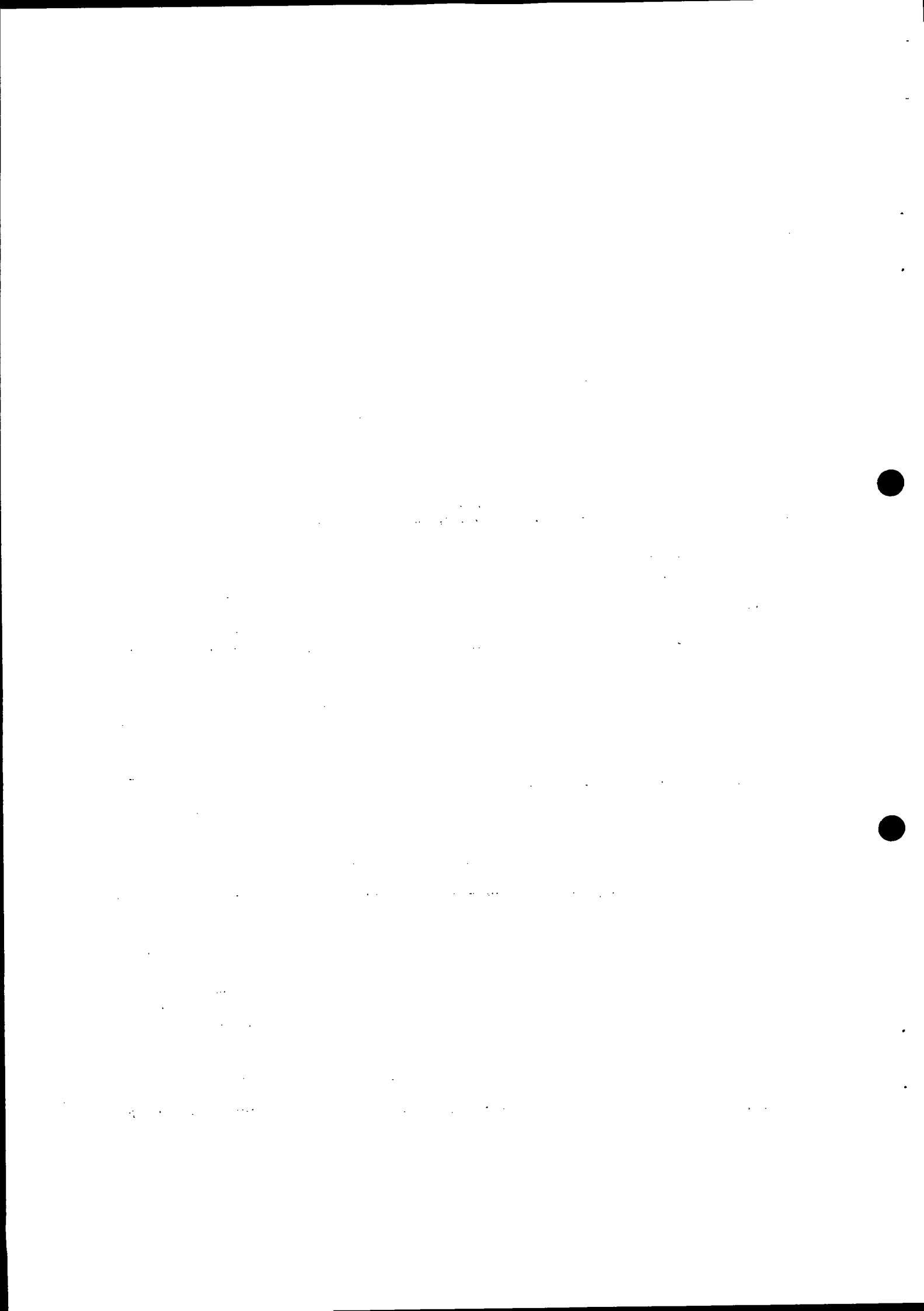
21. The Assembly calls on the Secretary General of the Council of Europe to analyse the effectiveness of the existing assistance and co-operation programme with the Russian Federation concerning the Chechen Republic and to strengthen the work of the operational Directorates General of the Council of Europe with regard to Chechnya.

22. The Assembly calls on the Council of Europe Commissioner for Human Rights to co-operate closely with the human rights institutions and non-governmental organisations active in the Chechen Republic.

23. The Assembly calls on the UN, the OSCE and the European Union to closely follow the political and human rights situation in the Chechen Republic. The Assembly furthermore calls on the European Union to co-operate with the Council of Europe in fostering democracy and the rule of law in Chechnya, for instance through specific joint programmes of action.

24. The Assembly decides to remain seized of this issue and to follow-up the progress in the Chechen Republic regarding human rights, democracy and the rule of law. For this purpose, the Assembly instructs its Political Affairs Committee to establish a Round Table for the organisation of an exchange of view with political parties and politicians from the Chechen Republic and the federal authorities of Russia, at the same time, realising that persons who refuse to recognise the territorial integrity of the Russian Federation and who declare terrorism a method to achieve goals, cannot be participants in such an exchange of views.

25. The Assembly suggests that other proposals to promote a resolution of the conflict should be examined as well, for instance through a concerted effort by the international community to support reconstruction in regions suffering from armed conflict in the Caucasus.





Provisional edition

The political situation in the Chechen Republic: measures to increase democratic stability in accordance with Council of Europe standards

Resolution 1402 (2004)¹

1. The Parliamentary Assembly of the Council of Europe reaffirms its commitment to further human rights, democracy and the rule of law in the Chechen Republic, as an integral part of the Russian Federation, and deplores the grave situation the people of Chechnya still have to live in. The situation in the Chechen Republic is of great concern to the common values which all member states of the Council of Europe have committed themselves to and thus requires close attention by the authorities of the Russian Federation as well as assistance by the relevant Council of Europe bodies.
2. The Assembly appreciates the intention of the Chechen authorities to establish the post of Commissioner for Human Rights (Ombudsman) in the Chechen Republic aimed at further promotion of human rights and the rule of law.
3. The Assembly strongly condemns the gross violence which persists in Chechnya and has sadly become the most significant formative factor for a whole generation of people in Chechnya. The continued death toll and human suffering caused by this conflict call for a concerted action in Chechnya by the local, regional and federal authorities as well as assistance by the international community of democratic nations, in particular the member states of the Council of Europe. The Council of Europe and its member states must not remain inactive when people are dying every day in Chechnya and neighbouring Republics through terrorist attacks, snipers, land mines, abuse of force by security services and acts of organised crime.
4. The Assembly also strongly condemns the assassination of the former officially elected President of the Chechen Republic, Mr Akhmad Kadyrov.
5. The Assembly furthermore condemns the spill over of terrorist action towards other federal entities of the Russian Federation neighbouring the Chechen Republic. It resolutely condemns the barbaric terrorist act in Beslan (North Ossetia) that should be considered as a gross crime against humanity. The Assembly welcomes the fact that the hostage-taking at the school in Beslan is being investigated by the competent Russian authorities, and that a special parliamentary Commission set up by the Federal Assembly of the Russian Federation is carrying out its own investigation of this terrorist act, the results of which must be made public.
6. Considering the repeated statements by Chechen separatist leaders on their disassociation with the recent terrorist acts in the Russian Federation, the Assembly, however, questions their sincerity, especially after Maskhadov's threats to move from acts of sabotage to large-scale military operations, as was broadcast this June by Radio Liberty.

¹ *Assembly debate* on 7 October 2004 (30th Sitting) (see Doc.10276, report of the Political Affairs Committee, rapporteur: Mr Gross). *Text adopted by the Assembly* on 7 October 2004 (30th Sitting).

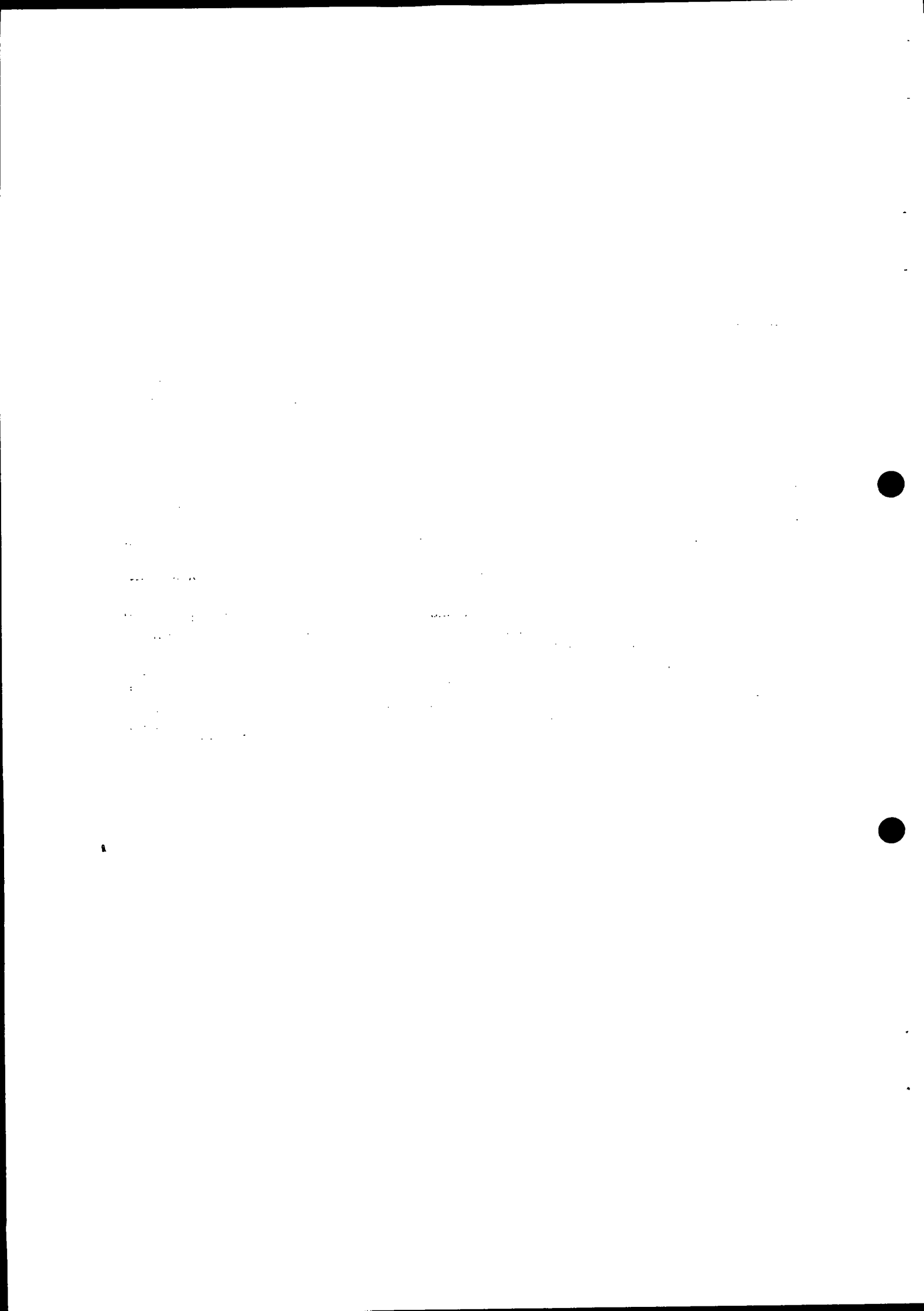
7. The Assembly is concerned that the recent wave of terrorist attacks will lead to a further escalation of violence and a deterioration of the human rights situation in the North Caucasus region. It appeals to all authorities involved not to react to the provocation in kind but to act with caution and consideration and according to the principles of proportionality and the rule of law.
8. The Assembly joins the statement on the terrorist attack in Beslan and the need to strengthen international co-operation against terrorism endorsed by the Standing Committee meeting in Oslo on 7 September 2004. In this respect, it calls for an urgent start on the elaboration of a comprehensive Council of Europe Convention on terrorism.
9. The absence of the rule of law in Chechnya prevents the development of a humane and democratic society. Democratic institutions will remain hollow and fragile where people live in fear and poverty, organised crime and warlords fighting for quick profits and daily terror costing the lives of many. It should, therefore, be the priority for the political leadership in Chechnya to ensure that the law is enforced and applied throughout the Chechen Republic equally to everybody.
10. For this purpose, the newly elected President of the Chechen Republic should establish publicly a comprehensive conflict assessment indicating the various actors which may have influence regarding the conflict: terrorists, warlords, major actors of organised crime and corrupt and grossly violent members of the security forces as well as clan, religious and political leaders. Once such a conflict map has been established, political, military, religious and clan leaders should seek to define common approaches on how to either re-integrate into society those who perpetuate the conflict in Chechnya or to develop effective strategies on combating those violations of the law.
11. The Assembly emphasises the central role of the media and the importance of guaranteeing freedom of speech in regions of conflict. Transparency may help prevent human rights violations and media may provide a forum for indirect dialogue over ways to resolve a conflict.
12. The amount of weapons and small arms in Chechnya is a source of great concern for the Assembly. This phenomenon facilitates and even causes violence in Chechnya on a daily basis. Law enforcement authorities in the Chechen Republic should therefore set up programmes for collecting weapons among the population and the Russian military should implement effective procedures to prevent the illegal transfer of arms and weapons from the military and any other sources to Chechen fighters.
13. The democratic participation of the people in Chechnya is a precondition for the development of democratic stability in the Republic. Therefore, local, regional and federal authorities should set up programmes for good governance and democratic citizenship in the Chechen Republic. For this purpose, systems of checks and balances on the power of the executive should be established which provide effective and accessible recourse against abuses of power by any public authority in Chechnya. The current political climate in the Chechen Republic should be improved by greater openness, accountability and efficiency of the political institutions, in order to strengthen the confidence of the public in these institutions.
14. The Assembly notes that the Constitution of the Chechen Republic of 2003 is a step towards a political settlement and the consolidation of society. It provides a legal framework for an efficient system of public administration which includes parliament and the judicial branch.
15. The Assembly pays tribute to the tireless and courageous efforts of civil society organisations and human rights activists working for the rule of law and peace in the Chechen Republic, for instance the organisations Memorial, Mothers in Chechnya for Peace, the Moscow Helsinki Group and others. All public authorities are called upon to support their work, in particular the State Duma of Russia as well the regional Duma of Chechnya to be elected in a few months.
16. Whilst regretting the circumstances of the presidential elections in the Chechen Republic of 29 August 2004, which did not fulfil basic requirements for democratic elections, the Assembly considers that the Council of Europe should nevertheless be ready to assist the Chechen President and his government in their efforts to strengthen human rights, democracy and the rule of law. The most important immediate challenge for the new government will be the task of establishing popular support, in particular among those parts of the population which felt alienated.

13. The Enlarged Assembly notes the importance of Intellectual Property Rights in the World Economy. The 21st century, in which the Internet is highly developed, is said to lead to a global community where "all are creators; all are users". Reforms of Intellectual Property systems to cope with the rapid development of digitization and networking will surely lead the world economy to sustainable growth by prioritizing the interests of current right owners such as artists and creators as well as those of users and consumers including potential artists and creators in the future. For this sake, the suppliers of cultural and technological assets and their users should take initiatives together for the above-mentioned reforms to realize mutual respect and reliance, including those in international contexts, paying due attention to the risk that any reform may be used as a tool for unfair control over the market by specific industries.

14. The Enlarged Assembly wishes to underline the particular importance of culture to sustainable development. The economic significance and employment potential of the cultural sector and cultural activities are growing steadily. Above all, however, culture embodies the values that form the very personality of a society. The OECD therefore has a duty to participate in discussion on reconciling the economic potential of the cultural sector with the specific role of culture and with the concern to preserve the diversity of the cultural content and artistic expression that individuals and societies contribute to it. Such discussions would establish the necessary link between the negotiations on the liberalisation of world trade and the work of the European Union, Council of Europe and UNESCO in supporting cultural diversity.

15. The Enlarged Assembly, having served as the OECD's Parliamentary forum since 1962, has seen the organisation's membership grow steadily to reach the present thirty. In welcoming the adoption by the 2004 OECD Ministerial Council of the OECD reform package, including a strategy for enlargement, the Enlarged Assembly encourages the organisation to find innovative ways of reconciling size with efficiency, not least in studying the experiences gained by organisations with many member countries, including the 46 member state Council of Europe.

16. The Enlarged Assembly recognises clearly that international conflicts and the proliferation of terrorism are serious threats for the international community and civil life and at the same time are major obstacles to the economic development of the world. The eradication of international conflicts and terrorism is essential for the development of the world economy and the happiness of humankind. The Enlarged Assembly asks OECD member countries and the international community as a whole to move forward with countermeasures so that the various complex problems that exist in the background of international conflicts and terrorism can be settled by peaceful means and as quickly as possible.





Provisional edition

OECD and the world economy

Resolution 1401 (2004)¹

1. The Enlarged Parliamentary Assembly, composed of Delegations of OECD and Council of Europe member states, has examined the recent activities of the OECD as they relate to the world economy, in the light of the report prepared by the Enlarged Assembly's Committee on Economic Affairs and Development and the contributions from various other committees.
2. The Enlarged Assembly welcomes the resumption of healthy economic growth in large parts of the OECD area and more generally worldwide - aided by strong economic performance in the United States, Japan, China, South-East Asia and several countries in central and eastern Europe, including Russia.
3. It counts on this recovery to assist higher growth also in the major economies in the eurozone, where hesitation among consumers and investors still hampers a resolute pick-up of activities and where insufficient structural reform - leading to a liberalisation of the economy and increased competition - continues to limit the potential for growth. It is vital for the European Union area, and for the wider Europe, to do more to favour innovation and entrepreneurship in line with the European Union's 2000 Lisbon Agenda - such as by radically cutting red tape for start-up companies and by transforming the European Patent Office into a truly pan-European organisation with wider competences and more streamlined procedures than at present.
4. The Enlarged Assembly is concerned, however, at the prospect of an approaching overheating of the US economy and the consequent need for that country to reduce its budget deficit and raise its policy-setting interest rate, currently at a historical low. Conversely, thought should be given to the need for a lower interest rate in the eurozone, capable of accelerating growth there. It would also be of great importance for the world economy if the United States succeeded in gradually reducing its extremely high current account deficit and in reorienting its economy in a more dynamic direction, especially as regards investments abroad, based on higher savings in American society.
5. Regarding Japan, in addition to the fact that the ratio of fiscal deficit to gross domestic product continues to be the highest in the OECD area, the Enlarged Assembly takes a strong interest in the fact that the country's present economic activities are excessively dependent on the unprecedented ultra-easy-money policy and exports to such countries as the United States and China. Regarding China, the Enlarged Assembly recognises that there is much room for improvement in view of the fact that the extreme regional imbalances and wealth disparities in the domestic economy are expanding and the country's buoyant exports are dependent on a national currency value that is detached from the market.
6. The increasingly wide differences in the OECD area is another cause for concern as these may lead to trade imbalances, tensions between diverging currencies and calls for protectionist measures. The OECD has a vital role in ensuring a constant exchange of experiences among and beyond its membership, in order to permit a more even and sustained pace of economic development to take place worldwide.

¹ *Assembly debate* on 6 October 2004 (29th Sitting) (see Doc. 10254, report of the Committee on Economic Affairs and Development, rapporteur: Mr Ateş. *Text adopted by the Assembly* on 6 October 2004 (29th Sitting).

7. The Enlarged Assembly notes that the present recovery has been largely "policy-induced", via exceptionally expansionary macro-economic policies as expressed in low interest rates, tax cuts and deficit spending. Given the difficult debt situation of several OECD member countries and their upcoming pension commitments to ageing populations, a return to balanced and if possible surplus budgets is becoming urgent. This holds not least for those countries in the eurozone which are at risk of breaking the rules of the EMU Stability and Growth Pact, since continued violations would not only weaken cohesion among EMU members but also affect the confidence in the currency itself.

8. The current high oil prices could easily derail the economic recovery under way. The Enlarged Assembly counts on OPEC and other oil-producing countries to raise production to levels necessary to avoid this. It at the same time recognises the manifold reasons for the current situation, including rapidly rising worldwide demand, wasteful use of oil, insufficient refining capacity in part due to neglected investment, price speculation, terrorist acts against oil installations and the various problems in Iraq, Saudi Arabia, Russia and Nigeria. New emphasis must in this situation be placed on policies needed for sustainable development, as detailed in the Enlarged Assembly's Resolution 1350 (2003) on "The OECD and the World Economy". The Enlarged Assembly in this context welcomes the OECD's recent decision to continue its work in the area of sustainable development, following the successful completion of its three-year project in this field.

9. Continued recovery also depends vitally on a successful conclusion of the ongoing WTO negotiations on a Doha Development Agenda. The Enlarged Assembly calls on all sides to build, in a spirit of compromise, on the experiences gained from the inconclusive Cancun Summit of 2003 and asks OECD member countries in particular to show the necessary openness as regards a reduction in the subsidies they pay to their agriculture sector, and to the eventual elimination of export subsidies and other trade distorting subsidies.

10. The Enlarged Assembly welcomes the OECD's recent agreement on a revised version of its Principles of Corporate Governance, not least in view of recent corporate scandals. The observance of the Principles is vital to lasting and socially responsible economic development. The Enlarged Assembly urges all OECD member countries to give maximum publicity to the Principles at home and in international fora and where necessary to adapt their legislation to conform with them.

11. The Enlarged Assembly marks its disappointment at the failure of OECD countries to meet commitments entered into as part of the organisation's 2001 Environmental Strategy, as well as in meeting the provisions of the Kyoto Protocol, even though that treaty has not yet entered into force. From fishery to forestry, from vehicular transport to pollution, most OECD countries are proceeding along an unsustainable path. The Enlarged Assembly calls on OECD member countries to make greater use of economic and fiscal measures for meeting environmental goals and to start preparations already now for a "post-Kyoto process", rendered necessary by increasingly apparent inability of the Kyoto Protocol to halt climate change. Also, the Enlarged Assembly encourages OECD member countries, when considering the future energy problem, to take the initiative in further promoting the shift to a recycling-oriented society, to strengthen technological development relating to new energy sources as represented by nuclear fusion energy, and to explore the potential of renewable energy so as to make sustainable development and environmental preservation compatible. In this way they will set an example also for non-OECD countries whose behaviour is influenced by the actions of the more wealthy countries of the world community.

12. While globalisation is bringing many benefits to the world - as manifested for instance in the rise of new economies and steadily rising incomes for millions of people - it is also now producing increasingly unacceptable income differences between and within countries. For any lasting worldwide development - accompanied by social solidarity and environmental protection - to succeed, the many obstacles which at present prevent liberalization of world trade must be eliminated. The Enlarged Assembly urges the OECD to develop - in a forum which should also include numerous non-member countries with which it co-operates - policies and programmes which ensure that globalisation benefit more countries and world citizens, in the interest of international peace, stability and solidarity. In this regard, the Enlarged Assembly recognises the importance of the adoption of 'A Strategy for Enlargement and Outreach' at the OECD, welcomes the OECD's activities under its Development Cluster, and encourages their further development.

v. ensure that their states, if they have not already done so, sign, ratify and effectively implement the Council of Europe instruments concerned with action against terrorism and particularly:

- the European Convention on the Suppression of Terrorism (1977)
- the European Convention on Extradition (1957) and its Protocols (1975 and 1978),
- the European Convention on Mutual Assistance in Criminal Matters (1959) and its Protocols (1978 and 2001),
- the European Convention on the Transfer of Proceedings in Criminal Matters (1972),
- the European Convention on the Compensation of Victims of Violent Crimes (1983),
- the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990),
- the Convention on Cybercrime (2001) and its Protocol (2003).

16. The Assembly calls on all the political forces in member states to:

- i. resolutely condemn all terrorist action, regardless of the country in which it takes place, as well as all activity whose purpose is to organise, finance or incite to terrorist acts or harbour terrorists;
- ii. prevent manifestations of ethnic hatred, racism and xenophobia and also the justification of terrorism;
- iii. consolidate democratic institutions and interaction with civil society so as to ensure maximum support for national and international anti-terrorism measures;
- iv. rally society around the principles of total rejection of and opposition to terror and that any form of psychologically pressuring the population is unacceptable;
- v. support measures to prevent persons implicated in terrorism from abusing any kind of institution or organisation, governmental or non-governmental, for the purpose of planning or preparing terrorist acts;
- vi. promote social cohesion and intercultural and inter-confessional dialogue for the purpose of removing factors contributing to the development of fertile breeding grounds for terrorism and preventing the spread of extremist theories seeking to justify acts of terrorism.

17. Moreover, the Assembly deems it necessary to:

- i. elaborate a comprehensive Council of Europe convention against terrorism;
- ii. analyse the effectiveness of Council of Europe conventions and other international instruments on combating terrorism and, on the basis of that analysis, draw up protocols to render those instruments capable of responding to the new terrorist threats;
- iii. instigate extension of the list of offences in the 1998 Rome Statute of the International Criminal Court so as to include certain offences of a terrorist nature, thereby widening ICC jurisdiction to encompass such offences;
- iv. review European Union experience with the European arrest warrant and to look into creating a legal basis for extending its applicability to Council of Europe member states;

v. intensify work on drawing up a Council of Europe "convention on reinforcing the protection of witnesses and pentiti / collaborators of justice in the context of acts of terrorism", the protocol to the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, and a recommendation on special investigation techniques in relation to acts of terrorism;

vi. begin the groundwork for setting up a European register of national and international standards so as to provide a system for computer access to law of member states of the Council of Europe and other European organisations and for exchange of legal information;

vii. establish a partnership between the Council of Europe and the European Union and create, in addition to the EU's own anti-terrorism co-ordination work, a joint framework for practical co-operation and information-sharing which involves all Council of Europe member states and develop enhanced co-operation with the United Nations, the OSCE and other international organisations;

viii. initiate a special programme, enabling exchanges of experience and best practice, for persons with operational responsibilities in the member states for handling concrete crisis situations, in order to ensure that they are highly professional and adequately trained so as to minimise risks to human lives;

ix. finalise as soon as possible the elaboration of guidelines on the rights of victims and the corresponding duties of member states to provide all necessary assistance and to create a forum for the exchange of good practice and training experiences between member states.

18. A serious study should be undertaken by the Council of Europe on the acceptable limits of freedom of expression and the possible abuse of that freedom by terrorists.

19. The Assembly decides to follow closely, through its relevant committees, international developments concerning terrorism, action by member governments and by national parliaments and the activities of the Council of Europe's Committee of Ministers in this field.



Provisional edition

Challenge of terrorism in Council of Europe member states

Resolution 1400 (2004)¹

1. The Parliamentary Assembly is outraged by the recent wave of acts of terrorism which have plunged several Council of Europe member states into mourning, killing and injuring hundreds of innocent people. It extends its deepest sympathy to the victims' families and all who have suffered as a result of these odious crimes.

2. In spite of the international community's efforts, the scourge of terrorism continues to spread throughout the world, assuming ever more terrible and murderous forms. The resurgence of acts of terrorism of an extreme brutality shows that the international community, including the states of Europe, have not been sufficiently alert to the gravity of the danger and have failed to take effective action to counter a new-style terrorism which stops at nothing.

3. Through its barbaric methods, terrorism attacks the fundamental values of society and challenges the very existence of democracy.

4. The protection of human rights plays a key role in the fight against terrorism. These rights are central to our credibility. Wherever those rights are violated this weakens the international coalition in the fight against terrorism and drives new supporters into the hands of the terrorists.

5. The Assembly refers in particular to Recommendation 1426 (1999) where it considered an act of terrorism to be "any offence committed by individuals or groups resorting to violence or threatening to use violence against a country, its institutions, its population in general or specific individuals which, being motivated by separatist aspirations, extremist ideological conceptions, fanaticism or irrational and subjective factors, is intended to create a climate of terror among official authorities, certain individuals or groups in society or the general public".

6. All attempts to provide terrorists with political, material, financial and other forms of support should be resolutely condemned.

7. Terrorism heeds neither law nor morality and must not be allowed to exploit the freedoms and advantages of modern democratic societies.

8. The Assembly considers that no cause can justify terrorism. Public expressions of support for terrorist actions may amount to incitement to violence and as such be the subject of restrictive measures in conformity with the European Convention on Human Rights.

9. The Assembly firmly reiterates its condemnation and utter rejection of terror as a means of achieving political ends. Every act of terrorism, regardless of the reasons given, aims pursued, methods used or demands made by the terrorists, is a challenge to democracy and must be considered a crime against humanity. It is unacceptable and dangerous to apply double standards to terrorists, depending on their alleged motives. There are no "good" or "bad" terrorists.

¹ *Assembly debate* on 6 October 2004 (28th Sitting) (see Doc. 10312, report of the Political Affairs Committee, rapporteur: Mr Kosachev. *Text adopted by the Assembly* on 6 October 2004 (29th Sitting).

10. Democracy cannot compromise over terrorism. For terrorists, human life, which is the supreme value in a democratic society, is a bargaining counter.
11. The Assembly is concerned about the fact that the threat or effects of terrorism can profoundly alarm and unsettle the community and affect the institutions and machinery of democracy. It believes that action must be taken to ensure that terror can exert no direct influence on democratic choices.
12. In accordance with the principles recorded in paragraph 5, the Assembly reaffirms its position of principle that the fight against terrorism must always be compatible with the fundamental freedoms and human rights which it has the task of protecting, taking as its basis the absolute primacy of the fundamental and inalienable right to life, which implies the right to protection from terrorism and all other attacks on human life and health. There should be no exceptions to the human rights standards of the Council of Europe, as well as to the legitimate right to resist oppression. Obligations under the UN Refugee Convention must likewise be fully respected. All the member states of the Council of Europe must avoid any erosion of these standards and ensure that the action they take against terrorism respects the principles on which democratic states are founded, their international commitments and internal legislation. In this connection, it welcomes the adoption by the Committee of Ministers of the Council of Europe of guidelines on human rights in the fight against terrorism.
13. The Assembly reiterates that the fight against terrorism does not justify the introduction of new and/or additional restrictions on freedom of expression, which is a fundamental pillar of democracy that terrorists want to destroy. The Assembly welcomes the drafting of a Declaration on Freedom of Expression and Information in the Media in the context of the fight against terrorism by the end of the year.
14. The Assembly remains convinced that the deep-rooted causes - poverty, exclusion, inequality, despair, widespread disorder, impunity for serious human rights violations and crimes, blatant disregard for the rights of national minorities - which provide fertile soil for terrorism, must be carefully analysed and systematic action taken to remove them. This work must be undertaken in parallel with necessary urgent lawful measures to prevent further acts of terrorism.
15. The Assembly accordingly calls on national parliaments to:
 - i. adopt an integrated and co-ordinated approach to countering terrorism at all its stages, including drawing up a legislative framework aimed at:
 - a. removing the factors contributing to the development of fertile breeding grounds for terrorism;
 - b. suppressing the sources and channels of finance, recruitment and propaganda;
 - c. organising operational co-operation between special services, police and justice systems as part of anti-terrorist and preventive action;
 - d. protecting, rehabilitating and compensating victims of terrorist acts;
 - e. developing mechanisms and a legal basis for protecting witnesses, collaborators of justice and reformed criminals;
 - ii. pass laws for reinforcing public security, consistent with human rights and fundamental freedoms, and obligations under international law and conventions;
 - iii. make full use of their powers in promoting intensified international co-operation in the fight against terrorism, with paramount emphasis on harmonising Council of Europe member states' anti-terrorism law so as to create a unified European legal area in anti-terrorism matters;
 - iv. ratify, using the accelerated procedure, the Protocol amending the European Convention on the Suppression of Terrorism (CETS No. 190), so that it can take effect as soon as possible;

ix. encourage the whole of society, particularly the public sector, and international organisations to adopt in response to the HIV/AIDS issue humane, constructive and non-discriminatory policies and practices, which protect the rights of infected individuals.

12. In order to attain the above goals, the Assembly encourages member states to:

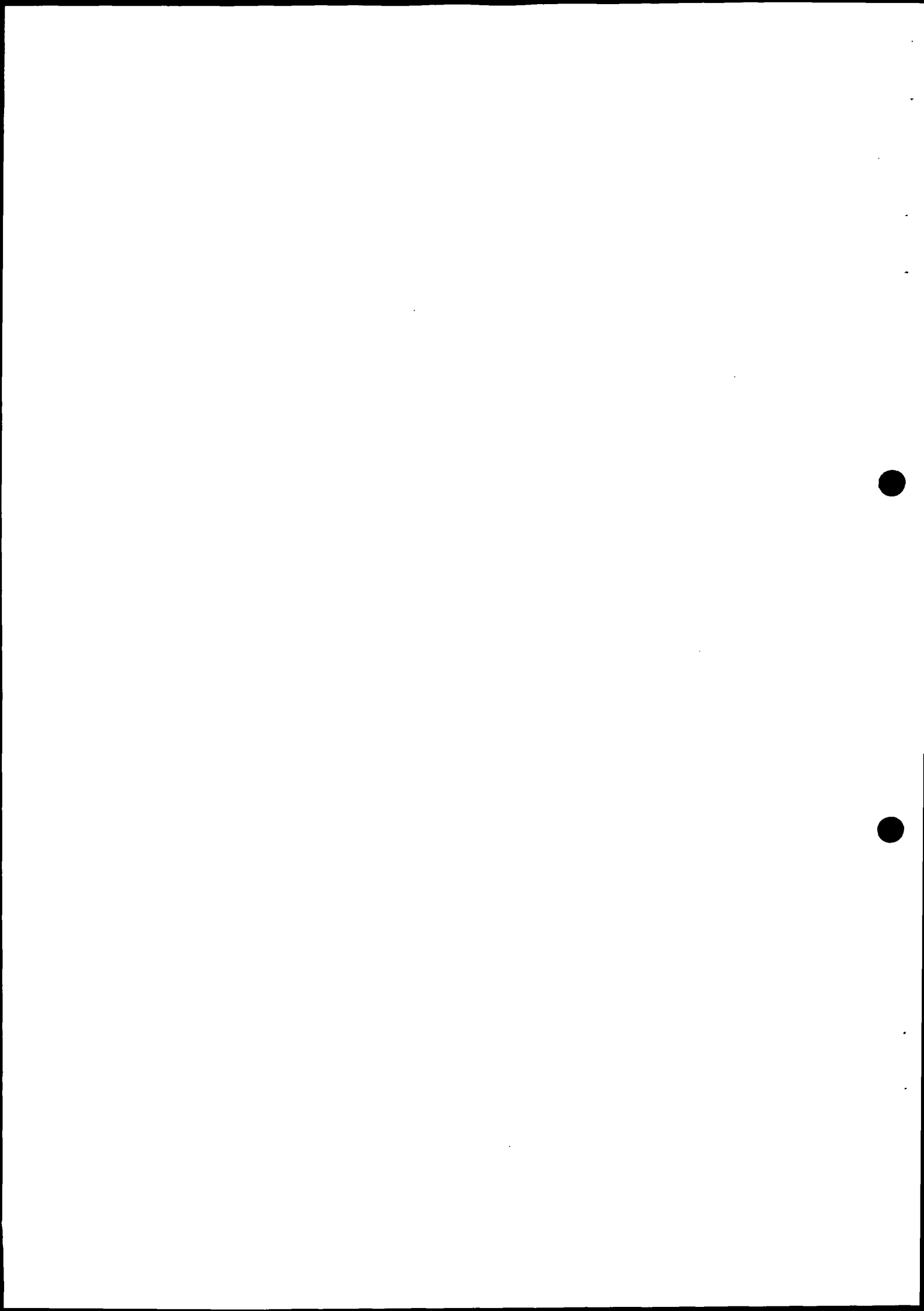
i. work with and support national and regional non-governmental organisations and the private sector in the formulation and implementation of national strategies for sexual;

ii. and reproductive health;

ii. engage in dialogue with young people and vulnerable population groups in the formulation of appropriate strategies and programmes, which respond to the sexual and reproductive health needs of these groups;

iii. encourage the creation in national parliaments of mechanisms and structures which tackle the sexual and reproductive health situation, in the national context, such as all-party parliamentary groups;

iv. provide appropriate funding in national health budgets to achieve these objectives.





Provisional edition

European strategy for the promotion of sexual and reproductive health and rights

Resolution 1399 (2004)¹

1. The right to protection of health is part of the Council of Europe acquis (Articles 11 and 13 of the revised European Social Charter). Every individual has the right to the enjoyment of the highest attainable standard of health which is defined by the World Health Organisation as a state of complete physical, mental and social well-being.
2. The right to sexual and reproductive health implies that people are able to enjoy a mutually satisfying and safe relationship, free from coercion or violence and without fear of sexually transmitted infections, including HIV/Aids or unwanted pregnancies. Individuals and couples should be able to regulate their fertility without adverse or dangerous consequences.
3. The International Conference on Population and Development (ICPD, Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995) have put sexual and reproductive rights firmly on the human rights agenda. The objectives of the ICPD Programme of Action (PoA) have shifted the focus to the needs and rights of the individual.
4. A large number of objectives were adopted in Cairo in 1994 as part of the International Conference on Population and Development Plan of Action (ICPD PoA). 179 Countries pledged to reduce maternal mortality and combat HIV/Aids and improve people's sexual and reproductive health and rights. The ICPD objectives were further reaffirmed in the Millennium Development Goals, which were adopted by the United Nations General Assembly in 2000.
5. In 2002, parliamentarians from over 70 countries around the world adopted the Ottawa Statement of Commitment, endorsed by this Assembly in September 2003 and pledged to "*give high priority to achieving universal access to reproductive health services and commodities in national health and poverty-reduction frameworks, both in terms of budget allocations and in terms of programme activities*".
6. This year, 2004, marks the 10-year anniversary of the International Conference on Population and Development Plan of Action. To mark this important benchmark, a review has been initiated by the United Nations Population Fund (UNFPA) to assess progress and shortfalls. The Parliamentary Assembly itself has adopted Resolution 1394 (2004) on the involvement of men, especially young men, in reproductive health. It called on Council of Europe member and observer states to involve men and boys in all aspects of sexual and reproductive health, via special awareness-raising and sex education programmes, and improved access to reproductive health services.

¹ *Assembly debate* on 5 October 2004 (27th Sitting) (see Doc. 10266, report of the Social, Health and Family Affairs Committee, rapporteur: Mrs McCafferty and Doc. 10310, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Zapfl-Helbling). *Text adopted by the Assembly* on 5 October 2004 (27th Sitting).

7. Many Council of Europe member states have very high standards of sexual and reproductive health, taking into account indicators such as contraceptive use, HIV/AIDS prevalence, abortion rates, maternal and child morbidity and mortality rates. Their experiences can serve as a useful example to other member states in finding solutions to improve the sexual and reproductive health situation in their own countries.

8. However, there is enormous disparity of standards between member states and even within member states. In many Council of Europe member states there are issues for concern: rising teenage pregnancies, high rates of sexually transmitted infections (STIs) including HIV/Aids infections, rising infertility rates, poor access, availability, affordability and a lack of use of sexual and reproductive health commodities and services and poor relationship and sex education.

9. In many Eastern European countries contraceptive use remains low leading to unwanted pregnancies; abortion rates in some areas are among the highest in the world as a result of a lack of appropriate sexual and reproductive health information and services. In some member states women are still forced to resort to illegal, backstreet and therefore unsafe abortions.

10. Maternal and child morbidity and mortality and reproductive cancers are issues of great concern in many countries, together with sexual violence and exploitation, including the trafficking in human beings.

11. The Parliamentary Assembly calls upon member states to:

i. work together to design a European strategy for the promotion of sexual and reproductive health and rights, and prepare, adopt and implement comprehensive national strategies for sexual and reproductive health which address the issues of:

- a. sexual and reproductive health information and education, especially for children and adolescents;
- b. rising teenage pregnancies;
- c. rising sexually transmitted infections (STIs) including HIV/Aids;
- d. infertility;
- e. high abortion rates, including unsafe abortions in some member states where abortion is illegal;
- f. lack of affordable, accessible, available sexual and reproductive health commodities and services;
- g. reproductive cancers, including breast cancer;
- h. sexual violence and exploitation, including the trafficking in human beings;
- i. maternal and child morbidity and mortality;

ii. take all appropriate measures to ensure equality between men and women in all aspects of life, including in relation to universal access to comprehensive sexual and reproductive healthcare services;

iii. increase sexually transmitted infections (STI) screening, treatment and voluntary counselling and testing (VCT) for HIV and subsequent treatment for those found to be HIV positive;

iv. facilitate access to affordable and wide-ranging contraceptives and services;

v. provide age- and gender-appropriate, comprehensive sexual and reproductive information and education;

vi. respond to the specific needs of young people, with specific reference to confidentiality and youth friendly services;

vii. respond to the specific needs of vulnerable population groups, including migrants, minorities and the rural population;

viii. meet changing sexual and reproductive health needs over the life cycle;

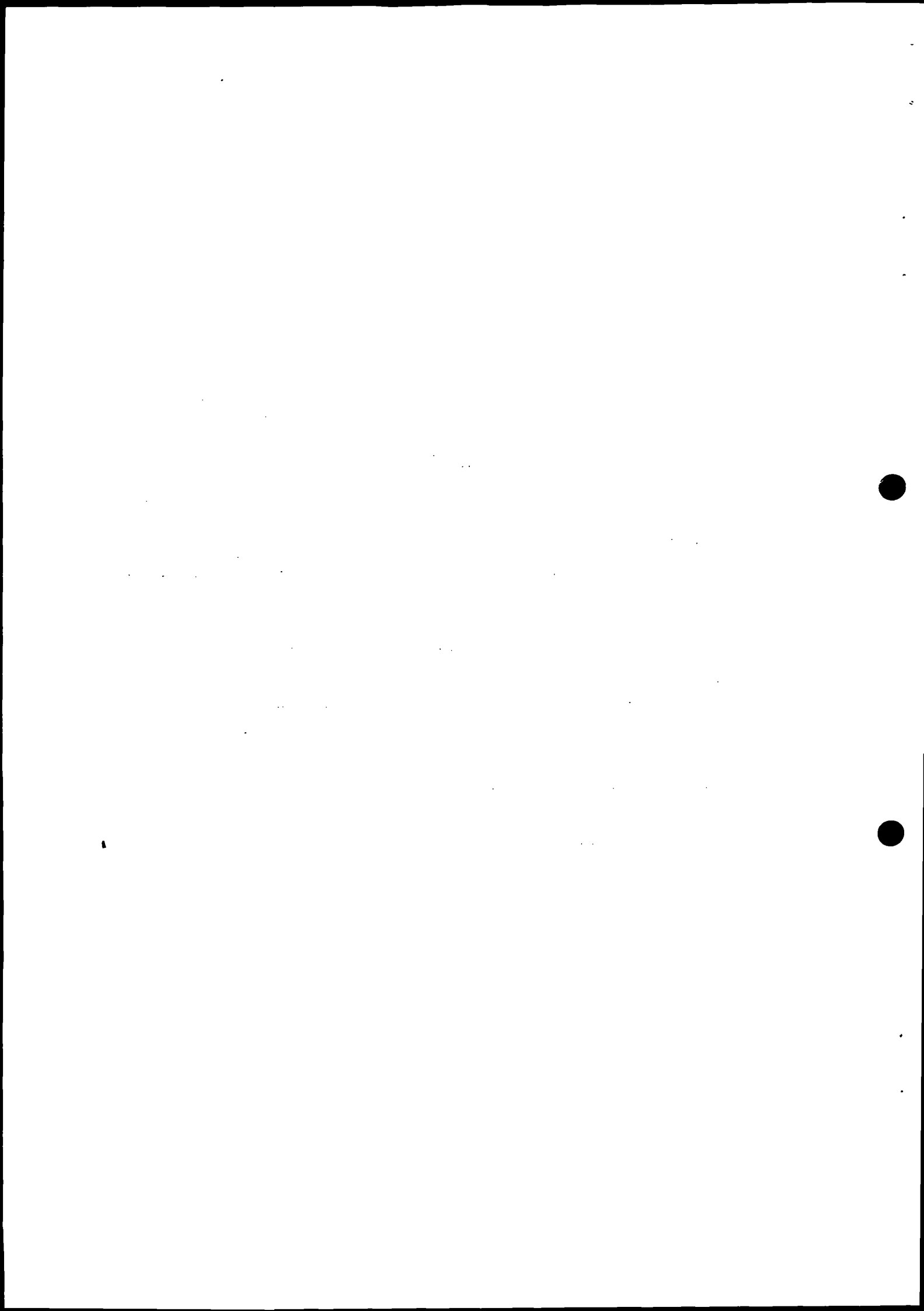
- vi. ensure that election officers who are indeed responsible for fraud are taken to court;
- vii. publish full election results for each polling station and officially acknowledge the serious irregularities that marred the 2003 elections;
- viii. draw up a new civil register so that voters can be properly registered, if possible in time for the forthcoming municipal elections scheduled for end 2004, and at the latest in time for the parliamentary elections in 2005;
- ix. continue to reform the judicial system and co-operate with the Council of Europe in order to revise the Criminal and Civil Codes, draw up an Administrative Code and introduce an alternative civilian service;
- x. increase aid to displaced persons, refugees and asylum seekers, including those from Chechnya, and to provide education for their children;
- xi. continue to take appropriate steps to honour their outstanding obligations and commitments, as set out in Resolutions 1305 (2002) and 1358 (2004).

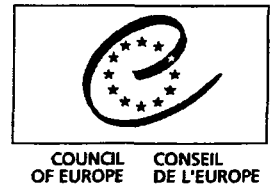
11. The Assembly cannot consider closing the current monitoring procedure until such time as Azerbaijan has proven that its commitments have been irreversibly implemented; its capacity to organise free and fair elections, in accordance with internationally recognised standards, will have to be tested again.

12. The Assembly takes note of the Azerbaijani authorities' willingness to adhere to the principles underpinning the Council of Europe and the values of a democratic, humanist and tolerant Europe. The Assembly notes, however, that 14 political prisoners are still in prison, as well as 174 other alleged political prisoners; it therefore considers that the question of political prisoners has still not been satisfactorily and definitively resolved, in spite of the ongoing constructive dialogue between the Assembly and the President of Azerbaijan and the Azeri parliamentary delegation. The Assembly once again asks the Azerbaijani authorities, as a token of their good faith, to take steps to settle the problem of political prisoners and presumed political prisoners who are still in jail, to refrain from reproducing the familiar cycle whereby they "manufacture" such prisoners and in particular to immediately release the 14 political prisoners still in prison, given that the retrials received by most of them were not carried out fully according to the norms and principles of the Council of Europe.

13. The Assembly renews its invitation to the Azerbaijani parliamentary delegation and to the Azerbaijani Parliament to spare no effort in supporting the measures the authorities need to take to comply with the Assembly's past and current recommendations.

14. The Assembly decides that it will monitor the organisation of the forthcoming municipal elections with special care as a new test of democracy in Azerbaijan.





Provisional edition

Implementation of Resolution 1358 (2004) on the functioning of democratic institutions in Azerbaijan

Resolution 1398 (2004)¹

1. Since Mr Ilham Aliyev was elected President of the Republic in October 2003, the new government has embarked on a series of domestic reforms that are essential if Azerbaijan is fully to honour its obligations and commitments as a Council of Europe member state. With regard to foreign affairs, it has adopted a resolutely pro-European national independence policy. However, tensions within the government can be observed and consequently current reforms do not progress as quickly as might have wished the President.

2. It will be remembered that the Parliamentary Assembly gave the newly elected President an opportunity to demonstrate his commitment to Europe's democratic principles and values. It considers that, nearly a year after this election, there are a number of positive signs, for example in the form of four presidential pardon decrees, and notes that a number of reforms concerning pluralist democracy, the rule of law and respect for human rights are under way. It particularly welcomes the good climate of co-operation and trust that prevails between the Assembly and the Azerbaijani authorities.

3. Despite the fact that Azerbaijan has declared that it favours a peaceful settlement of the conflict over Nagorno-Karabakh and the occupied territories of Azerbaijan, which is one of the obligations of Azerbaijan and Armenia before the Council of Europe, the Assembly cannot but observe that no tangible progress has been made over the past year either in the direct negotiations between the Presidents of the two countries, which are still taking place, or within the Minsk Group. The Assembly strongly urges Azerbaijan and Armenia to continue to seek the earliest solution to the conflict in conformity with the norms and principles of international law.

4. The Assembly acknowledges that Azerbaijan has made some progress in honouring its obligations and commitments since Resolution 1358 (2004) on the functioning of democratic institutions in Azerbaijan. It considers, however, that this progress is inadequate. It therefore encourages the government and parliament to aim at settling the outstanding issues mentioned below and follow up the recommendations below.

5. In particular, the Assembly notes with concern that, despite the requests made in Resolution 1358 (2004):

i. transparency of the entire electoral process has still not been satisfactorily ensured, in particular by means of improvements in the performance of the election administration, and there has still been no official recognition of the serious fraud that marred the presidential election in October 2003;

¹ *Assembly debate* on 5 October 2004 (27th Sitting) (see Doc.10285, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Gross and Mr Herkel). *Text adopted by the Assembly* on 5 October 2004 (27th Sitting).

ii. those guilty of fraud during the October 2003 presidential election have not been prosecuted or convicted; it was the same for most of the law-enforcement officers responsible for instances of torture, inhuman treatment, threats and intimidation in respect of members of the opposition, members of their families, supporters, journalists and human rights activists;

iii. some political prisoners and presumed political prisoners are still in jail and there is still a risk of being arrested and imprisoned for political reasons.

6. With regard to the separation of powers, the Assembly is still waiting for the Parliament to be genuinely able to play its role in legislating and in overseeing the Executive and for the Judiciary to be completely independent of the Executive.

7. The Assembly is pleased to note that the Azerbaijani parliamentary delegation has taken initiatives with a view to making improvements, such as being in favour of abolishing the electoral code rule which does not allow NGOs receiving 30% of their funds from foreign sources to send observers to elections, or concerning the right to education for Chechen children born in Azerbaijan. The Assembly hopes that the list of the delegation's initiatives will be extended.

8. With regard to fundamental freedoms, the Assembly observes that:

i. freedom of expression is not guaranteed in practice and journalists are increasingly engaging in self-censorship;

ii. freedom of association is still not unhindered, even now that the Legal Entities Act has been passed;

iii. permission to hold peaceful meetings is refused in too many cases, often on the basis of a pretext;

iv. law-enforcement bodies continue, according to numerous credible and consistent accounts, to use psychological pressure and violence against people who have difficulties with authority at any level;

v. prisoners continue to be ill-treated, not least in order to make them confess.

9. With regard to the media, the Assembly:

i. expects the independent media in Azerbaijan to be able to resume their activities without being constantly threatened with being gagged or harassed;

ii. welcomes the recent adoption by the Parliament of Azerbaijan of the law on Public Service Broadcasting and calls on the Azerbaijani authorities to fully implement the provisions of that law in practice. Establishing a public television service is indispensable for all democracies especially if the aim is to ensure real choice. The propagation of biased news programmes should be avoided.

10. In the light of the foregoing, the Assembly requests the Azerbaijani authorities to:

i. remedy the violations of the electoral system and shed full light on the human rights violations that took place during and after the October 2003 presidential election;

ii. rapidly release or pardon the seven people imprisoned following the events which took place after the elections and whom the co-rapporteurs met and the 33 other people sentenced on that occasion;

iii. take steps to investigate all cases of ill-treatment and torture and, where necessary, prosecute the perpetrators; government officials engaging in such practices should not be left unpunished;

iv. legislate to protect political activists, their supporters and their families from all forms of harassment and intimidation from any source;

v. take all steps to allow the press to operate independently;

15. The state union of Serbia and Montenegro, which was created on the initiative and with the assistance of the European Union to help the process of democratic and economic reforms and speed up its integration in the European Union, is, in the present form and circumstances, not meeting the expectations. The Assembly considers that the main reason lies in the failure of both Serbia and Montenegro to amend their respective constitutions and make them compatible with the Constitutional Charter. More than a year after the expiration of the agreed six months deadline, there are few signs of genuine intention to proceed with the necessary constitutional changes any time soon. The status quo is resulting in a constitutional vacuum and in ensuing constitutional, legal, administrative and political contradictions which is preventing the state union and its institutions to be anything else but a nearly powerless shell.

16. The Assembly, fully conscious of the importance of a properly functioning state union for the success of democratic reforms in Serbia and Montenegro and its integration into the European Union, calls on:

i. the governments, parliaments and all political forces in Serbia and Montenegro to re-launch and rapidly complete their constitutional reform in order to create the constitutional and legal preconditions necessary for the normal functioning of the state union before the expiration of the three-year period set by the Constitutional Charter;

ii. the Council of Ministers and the Parliament of the state union to intensify their activities, with a special focus on areas where there has so far been little or no progress, such as:

a. the removal of obstacles to free circulation of goods and services between Serbia and Montenegro;

b. the adoption of legal and administrative decisions necessary for the compliance with obligations resulting from the country's membership in the Council of Europe, starting with the selection of candidates for the post of judge and the nomination of the State Agent before the European Court of Human Rights;

c. the return of the Serbian refugees and internally displaced persons to their original homeland;

d. the dismantling of the military courts and the transfer of their competence to civilian courts;

e. compliance with all other obligations resulting from the Constitutional Charter, which are under their competence and have not yet been met.

17. The Assembly also calls on the political leadership in Serbia and Montenegro, and on the European Union, to begin talks aimed at finding solutions to the obstacles in the functioning of the state union, including those related to the obligation to carry out direct elections to the state union Parliament within two years after the entry into force of the Constitutional Charter.

18. With regard to Kosovo, the Assembly calls on the authorities in Serbia and Montenegro to adopt a constructive attitude in the search for a lasting solution to this problem. They should maintain and reinforce the dialogue with the provisional institutions of the self-government in Kosovo and with the UNMIK, encourage the Kosovo Serbs to take part in the political process, including in the forthcoming elections, and help to dismantle the parallel structures of government in the Mitrovica area. The leaders of the Kosovo Albanian community and the international community should, on their part, do much more to create sustainable and secure conditions for the return of Serbs and other non-Albanians to Kosovo and to ensure their full participation in the political process. An immediate and substantial progress in dealing with the consequences of the ethnic violence of March this year – both in terms of justice and reconstruction – is a pre-condition for the success of any such efforts.

19. The Assembly encourages the authorities in Serbia and Montenegro to continue the process of their legislative reforms and to focus on the critically important laws which should be adopted in the shortest possible period. These laws – and the list is not exhaustive – include:

i. in Serbia, the law on police, the law on non-governmental organisations and the law on the ombudsman. In addition, the package of media laws should be revised or completed with regard to

the prevention of improper influence of the executive powers, media concentration, transparency of media ownership and criminal libel provisions in the penal code;

ii. in Montenegro, laws on police, state intelligence agency and public access to information.

20. The Assembly calls on the authorities in Serbia and Montenegro to refrain from any attempts to control, influence or intimidate the media. The Serbian government should not use the state budget in order to maintain its political influence in the remaining state-owned media outlets at the expense of the independent media organisations. It should also proceed with the full transformation of the Serbian Radio and Television into a public broadcaster. In Montenegro, the number of libel cases against media – and the size of the fines imposed – is a matter of serious concern.

21. The Assembly calls on the authorities of Serbia and Montenegro to ensure that the specific crime of torture, as defined under the Convention against Torture, is introduced into law, as recommended inter alia by the Committee against Torture in 1998.

22. The Assembly is concerned by the risk of deteriorating inter-ethnic relations in Serbia and particularly in Vojvodina. It calls on the authorities to properly investigate and sanction any ethnically motivated incidents but also to reinforce the dialogue with the representatives of the minority in order to prevent any attempts to deteriorate the inter-ethnic relations in the country. On the other hand, all attempts to politically exploit inter-ethnic tensions for political purposes, be it locally, nationally or internationally, should be immediately stopped and unconditionally condemned. The Assembly also notes with concern continuing reports of the ill-treatment of Roma by law enforcement officers, continued unlawful evictions and the absence of any real progress in addressing discrimination against Roma in gaining access to basic social and economic rights.

23. The Assembly calls on the international community to do more to help Serbia and Montenegro which has to care for the several hundred thousands of refugees from Croatia and Bosnia and Herzegovina. This should include the creation of conditions for sustainable return of those willing to go back. The Assembly also fully endorses the recent call by the Kosovo Ombudsperson, Marek Nowicki, asking the state union, Serbian and Montenegrin authorities to grant internally displaced persons from Kosovo some of the rights and benefits that are enjoyed by refugees.

24. With regard to the independence of the judiciary, the Assembly calls for an immediate end to any attempts by the executive power to influence, pressure or discredit the judiciary. Any justified allegations of corruption, criminal ties or political bias should be dealt on the basis of law, not through the media. In Serbia, the government is responsible for creating proper circumstances in which the two Special Courts will be able to carry out their tasks in an independent and professionally adequate manner. In Montenegro, the political forces should abstain from any attempts to influence the judiciary, through their role in judicial nominations or any other means.

25. The Assembly calls on the authorities in Serbia and Montenegro to reinforce their fight against organised crime and corruption which continue to hamper a full democratic reform and economic recovery.

26. The Assembly calls on the authorities at all levels to immediately and unconditionally comply with the country's obligations under the Statute of the ICTY, starting with the arrests and extraditions of all indicted persons who openly reside on the territory of Serbia and Montenegro and the intensified search for those who may be hiding in the country. The authorities should also bring to justice in domestic courts all those not indicted by the ICTY and suspected of war crimes, and in particular, make progress towards indicting those suspected of the murder, transfer to Serbia and reburial of the bodies of some 800 ethnic Albanians exhumed at Batajnica and other sites in Serbia. In addition, the authorities should immediately comply with the commitment to inform the public of the crimes committed by the Milosevic regime through a public campaign but above all through a change of attitude of many of the political leaders which is negatively influencing the public opinion with regard to the Tribunal.

27. Noting that continuing impunity, "disappearances" and abductions contribute to inter-ethnic tension in Kosovo, the authorities should fully co-operate with UNMIK in resolving the fate of the other ethnic Albanians who "disappeared" after being arrested by Serb police or paramilitary forces in 1999.

28. In conclusion, the Assembly calls on all moderate, pro-European and progressive political forces in Serbia and Montenegro to engage in dialogue and co-operation with the aim to stabilise and consolidate democratic institutions within and between the two member states. This is a precondition for the success of democratic, economic and social reforms.

29. The Assembly resolves to continue to monitor the honouring of commitments and obligations by Serbia and Montenegro.

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1. The first part of the report deals with the general situation in the country and the progress of the work during the year.

2. The second part deals with the results of the work in the various fields of research.

3. The third part deals with the financial situation and the budget for the next year.

4. The fourth part deals with the personnel situation and the plans for the next year.

5. The fifth part deals with the general conclusions and recommendations.



Provisional edition (revised)

Functioning of democratic institutions in Serbia and Montenegro

Resolution 1397 (2004)¹ (revised)

1. Serbia and Montenegro became a member of the Council of Europe on 3 April 2003, less than a month after the tragic assassination of Serbian Prime Minister Zoran Djindjic. This crime was a hugely traumatic event which affected the efforts to carry out comprehensive democratic reforms in line with Council of Europe standards.
2. Since accession, and after the end of the state of emergency imposed following the assassination of Djindjic, Serbia and Montenegro formally succeeded in creating the institutions of the state union which was set up under the auspices of the European Union. Today, the state union Parliament and the Council of Ministers are meeting regularly and the judges to the state union Court were recently appointed.
3. Serbia and Montenegro has signed and ratified the European Convention on Human Rights, the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Framework Convention for the Protection of National Minorities and is on track with regard to other formal commitments to the Council of Europe.
4. In Serbia, the new government of Prime Minister Vojislav Kostunica is engaged in an ambitious legislative reform, adopting a series of key laws in the area of the political system and the judiciary. In doing so, the government is regularly seeking Council of Europe expertise. A similar process is in place in Montenegro.
5. In June this year, after almost two years and three invalidated elections, Serbia also finally succeeded to elect its new President, Boris Tadic. This was made possible by the changes in the electoral law introduced by the new parliament which eliminated the minimum turnout for the validity of the elections. On the same occasion, it also eliminated the minimum threshold for political parties representing national minorities.
6. The achievements of the authorities in Serbia and Montenegro are additionally important because they took place against the very difficult background of the legacy left by the Milosevic regime and the poor economic and social situation in both member states of the state union.
7. The situation in Kosovo and the lack of security of the remaining members of the Serbian and other non-Albanian communities, particularly after the eruption of the ethnic violence in March this year, is also negatively affecting the situation in Serbia. Large numbers of internally displaced persons represent an additional financial burden for a country that is already hosting several hundred thousands of refugees from Croatia and Bosnia and Herzegovina. The settlement of a large number of Serbian refugees and internally displaced persons in areas inhabited most by national minorities has changed the ethnic structure of Vojvodina. The social situation is deteriorating and the personal tragedies of these people are often being exploited by populist politicians advocating radical and intolerant policies and ideas.

¹ *Assembly debate on 5 October 2004 (26th Sitting)* (see Doc.10281, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Budin and Mr Čekuolis). *Text adopted by the Assembly on 5 October 2004 (26th Sitting).*

8. While the situation in Kosovo is, to a large extent, outside the influence of the authorities in Belgrade, the Parliamentary Assembly is of the view that this is not the case for most of the other problems which are slowing down the process of democratic reforms and social and economic recovery. This is particularly true for the political infighting between moderate, pro-European and democratic political leaders in Serbia which has helped to give a new breath of life to extremist forces in the country after they had all but disappeared from the political scene after the first democratic elections to the Serbian parliament in December 2000.

9. The compliance with the country's obligations under the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) is stagnating, and even deteriorating. A public campaign against the Tribunal, conducted virtually since 5 October 2000 by some leading Serbian politicians, resulted in overwhelming public hostility against the ICTY and a practical refusal to proceed with new extraditions. The Assembly considers that such attitudes not only help to deny justice for the hundreds of thousands of victims of crimes committed during the wars on the territory of the former Yugoslavia but also perpetuate self-deluding myths about Serbia being unfairly and unjustly treated by the outside world. Such ideas, popular with the previous regime, are an insurmountable obstacle on Serbia's path to democratic stability and its reconciliation with itself and its neighbours.

10. Since the fall of Milosevic's regime less than four years ago, Serbia conducted two parliamentary and four presidential elections. Local and regional (Vojvodina) elections, for the first time providing for direct election of city mayors, are scheduled for 19 September 2004. Moreover, there are some signs that new early parliamentary elections may be called before the end of the year and in early 2005 voters may also be called to directly elect Serbian representatives in the state union parliament. While democratic elections are undoubtedly the foundation of any democracy, the Assembly warns they cannot become a substitute for policy and the steadily declining turnouts clearly show that excessive voting is causing serious electoral fatigue which undermines citizens' confidence in democratic institutions.

11. While the legislative reform, in co-operation with the Council of Europe, is well under way both in Serbia and Montenegro, a number of critically important laws in the field of police and media are yet to be adopted or made fully compliant to Council of Europe standards. This is a matter of concern and the Assembly considers that the authorities in Belgrade and Podgorica should do much more to achieve a genuine reform which will effectively prevent any attempts to exploit the police and the media for political purposes.

12. Recently, there have been reports of an increase in the number of incidents against members of the Hungarian and other minority communities in Vojvodina. Given the difficult legacy of the past, the politically volatile situation and the deteriorating social conditions, it is clear that even a single ethnically motivated incident may cause far-reaching and seriously damaging consequences.

13. In this context the Assembly notes that as a consequence of the policy of the Milosevic regime the ethnic composition of Vojvodina, where many national and religious communities used to coexist peacefully, has substantially changed. The Assembly calls the attention of the authorities in Serbia and Montenegro to the relevant provisions of the Framework Convention for the Protection of National Minorities of the Council of Europe, in particular to Article 16 asking to refrain from changing the ethnic composition where a substantial national minority is living.

14. The independence of the judiciary is formally guaranteed by laws in both Serbia and Montenegro. Yet, particularly in Serbia, judges complain of excessive interference of the executive power and of media campaigns aimed at discrediting the judiciary through allegations of corruption and links with organised crime. This is happening at the time when two Serbian special courts – for organised crime and for war crimes – are conducting two crucially important trials – of persons accused of the assassination of Djindjic and of persons accused for crimes committed in Ovchara in Croatia, immediately after the fall of Vukovar. In Montenegro, a significant number of judicial nominations have been blocked by parliament which raises some concern about political interference in the independence of the judiciary.



Provisional edition

The Doha Development Agenda: world trade at a crossroads

Resolution 1396 (2004)¹

1. The Parliamentary Assembly recalls its Resolution 1269 (2002) on "Managing globalisation: the role of the World Trade Organisation in the world economy", in which it welcomed the world community's agreement in 2001 to pursue the quest for more open world trade by means of negotiations on a broad range of issues under the World Trade Organisation's (WTO) so-called "Doha Development Agenda". It emphasises the need for multilateral trade rules that ensure free and fair trade.

2. The Assembly warmly welcomes the WTO's agreement reached in Geneva in July 2004 on a framework package for the pursuit of the Doha Development Agenda, thereby overcoming the setback suffered at the Cancun Ministerial Conference in September 2003 and rendering possible a final agreement at the WTO Ministerial Conference foreseen to be held in Hong Kong in 2005. The Geneva success is all the more noteworthy since any failure in these endeavours would have serious consequences for developed, emerging and developing economies alike, in the form of economic tensions potentially spreading to the political arena and affecting world peace and prosperity.

3. In a sign of progressing world interdependence, world trade grew by nearly 5% in 2003 and is expected to rise by an additional 8% in 2004 – raising the prospect of increased prosperity and new employment in large parts of the world. There are growing indications, however, that, in the absence of a successful conclusion of the current Doha negotiations, such increases will be harder to come by in future, since present WTO rules – essentially those concluded under the Uruguay Round a decade ago – are in less and less alignment with current economic, technological, trade and other developments. The result has been an increasingly sub-efficient world trade order characterised by widening trade distortions, forgone growth and rising international discord. A new agreement which permits the participating countries better to draw on their competitive advantages is therefore urgently needed.

4. Europe, Japan and the United States, which together count for two thirds of world trade, bear a special responsibility for securing success, notably through concessions on agriculture. The Assembly in this context welcomes the agreement reached in Geneva in July 2004 to phase out all agricultural export subsidies and substantially reduce trade distorting domestic support to agriculture within a reasonable time period and urges the European Union and the United States to present a credible end date as soon as possible. The final agreement should include a timetable for the successive realisation of these commitments and for gradually greater access to the markets of advanced countries for agricultural exports from developing countries, many of which have few other means of developing economically.

5. The Assembly, while noting the persistent difficulties to reach agreement on the so-called 'Singapore issues' concerning competition, the protection of investment, transparency in government procurement and measures to facilitate trade, notes the limited progress reached in

¹ *Assembly debate* on 4 October 2004 (25th Sitting) (see Doc. 10278, report of the Committee on Economic Affairs and Development, rapporteur: Mr Sasi). *Text adopted by the Assembly* on 4 October 2004 (25th Sitting).

Geneva in July 2004 in this area. A flexible and gradual implementation of the "Singapore issues" may well be the best way forward and will require concessions by emerging and developing economies, also in order to facilitate parallel agreement on agriculture. The Assembly in this context recalls its Recommendation 1646 (2004) on "Improving the prospects of developing countries: a moral imperative for the world", in which it stressed the importance of transparency and good governance in all countries, the need to reduce technical barriers to trade and the major potential for increased trade between less developed economies.

6. The world community is increasingly agreed that more intensive trade and economic development must be compatible with an efficient protection of the environment. The Assembly strongly supports efforts under way in the WTO to ensure that trade rules take into account the need to protect the environment and that, similarly, environmental protection does not unduly impede trade.

7. The protection of core labour standards, including a ban on child labour, has been a source of disagreement between, on the one hand, developed economies which tend to be in favour of their inclusion in the WTO agenda and, on the other, emerging and developing economies which take a more reserved attitude to their inclusion. The Assembly in this context recalls the values enshrined in the United Nations Convention on the Rights of the Child, the European Convention on Human Rights and Fundamental Freedoms, the revised European Social Charter and the Charter on Fundamental Rights forming part of the European Union's Constitutional Treaty. The Assembly strongly believes in the need for core labour standards such as those elaborated within the International Labour Organisation to increasingly inspire world trade rules and in defending them in all contexts, including in the WTO.

8. The Assembly notes the widely felt public apprehension over a perceived lack of democratic scrutiny regarding, and accountability of, international institutions as well as various aspects of globalisation. Against this background, it welcomes the co-operation between the Inter-Parliamentary Union (IPU), the European Parliament and the Parliamentary Assembly of the Council of Europe to ensure greater involvement by parliamentarians in the WTO process. It also calls on national parliaments to pursue and strengthen parliamentary oversight of WTO activities in shaping the multilateral trading system.

9. The WTO's present consensus-based method of decision-making has the advantage of being highly democratic and respectful of the wishes of all its members, but it also risks slowing down the process and diluting agreements. If the world is to preserve a multilateral trading system which has served it so well and avoid a retreat to protectionism, bilateralism and excessive trade regionalisation, it will need to reform WTO decision-making procedures as soon as the Doha Development Agenda has been successfully concluded.

10. The WTO at present has 147 members and 30 observers. Six Council of Europe member states - Andorra, Azerbaijan, Bosnia and Herzegovina, the Russian Federation, Serbia and Montenegro and Ukraine - are observers and at present engaged in negotiations for membership, which the Assembly hopes can soon become a reality. The Assembly in this context welcomes the agreement in May 2004 between the European Union and the Russian Federation aimed at facilitating that country's membership of the WTO. It believes that Russian membership would be of major benefit both for Russia and for the world - marking as it would, after China's joining in 2002, a near-universal reach for the organisation. The Assembly also welcomes the efforts of developing countries to organise themselves within the WTO framework through the G-21 and G-90 groupings. The Assembly also welcomes the input into the debate on free and fair trade alternatives to the actual development of world trade, by evolving world and continent-wide movements, which could attract especially young people, such as the World Social Forum and the European Social Forum.

11. The Assembly in conclusion calls on Council of Europe member states to pursue the vision, statesmanship and willingness that they, like all their WTO partners, manifested in Geneva in 2004, so that the Doha Development Agenda can be successfully concluded in good time and pave the way for a new era of stability, peace and growing prosperity. There can be no room for complacency in consideration of the limited time remaining and the vital issues at stake. It is in this context essential that further progress can be reached in lowering industrial tariffs, liberalising services and reducing trade distorting agricultural subsidies, in order to arrive at a balanced and fair final agreement beneficial to all parties - in consideration of the fact that, in WTO negotiations, "nothing is agreed until everything is agreed".

c. deal with the problems of population decline and excessive population ageing without endangering the fundamental human and societal goals and acquisitions in Europe;

d. recognise that many people may not wish to have more children or found a family and in this respect adapt social systems to conform to this new reality

e. develop long-term population-related policies that take adequately into account the generational and intergenerational dimensions of demographic processes;

f. address the fundamental causes of demographic trends which are considered as challenges for social cohesion, intergenerational solidarity and continuity;

g. on the hypothesis that it is considered desirable to redress below-replacement fertility around replacement level:

A. address health challenges which inhibit people from having the number of children they desire, improve health conditions to allow people to remain fertile and respond to looming health challenges which can negatively impact on demographic trends, such as HIV/AIDS;

B. further pursue vigorously gender equality and emancipatory policies, not only to facilitate the combination of motherhood with other activities, in particular participation in the labour force, but also to involve fathers in child caring and rearing and household tasks, so that they can fully share family responsibilities with their partners;

C. more strongly eliminate existing parenthood-linked financial inequities in society;

D. creating a more child-friendly environment, more particularly in urban areas, and providing more childminding facilities in all domains of social life – work, leisure, gatherings – so that children again appear as a welcome constituent in society;

E. promoting child- and family-oriented values, inter alia, by introducing family and population issues in the educational system;

F. rethink the organisation of the entire life-course perspective of work, parenthood and retirement.

h. in the domain of population ageing:

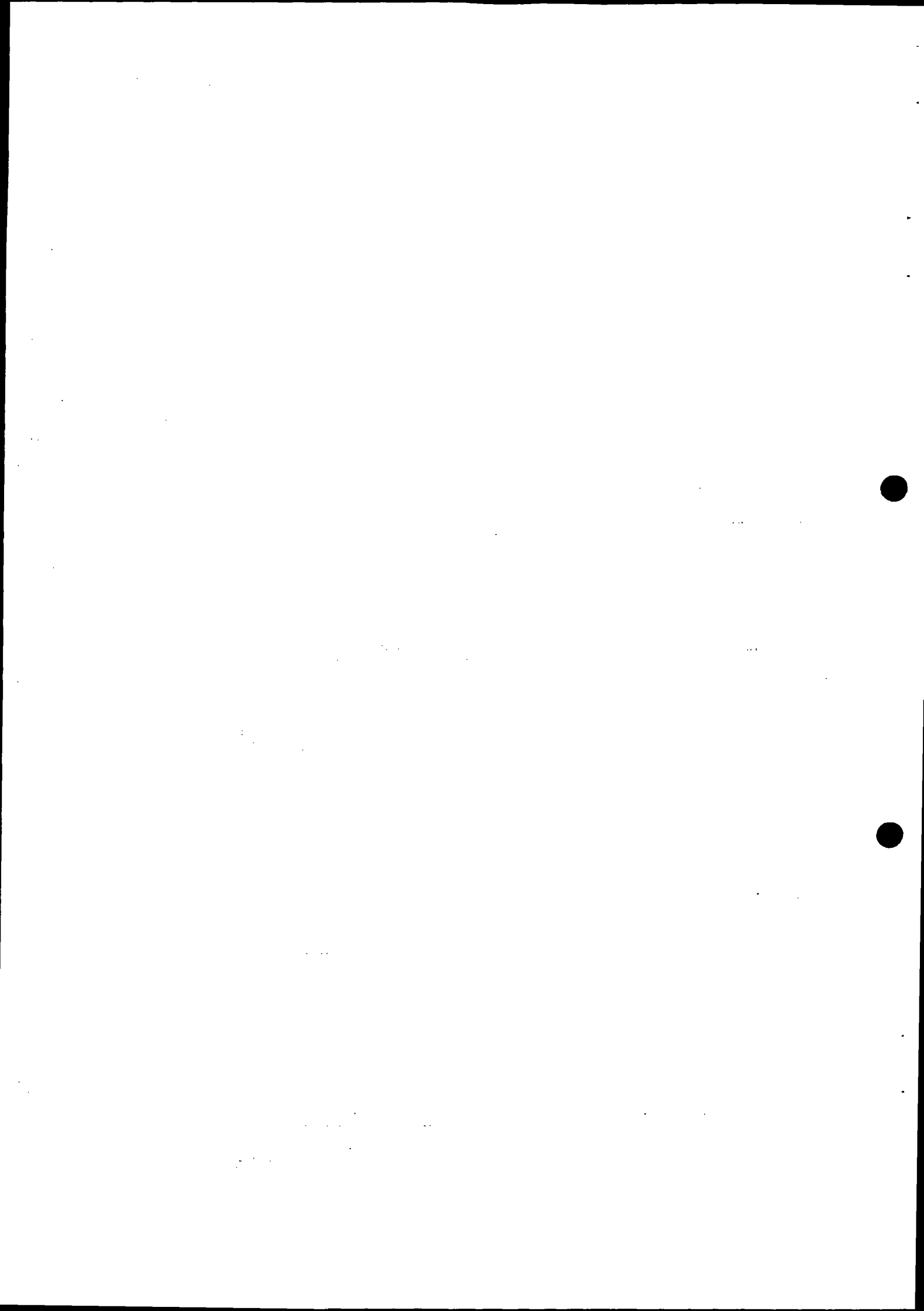
A. adapt the social protection system – pension system, health care and other public funded care – to the new demographic regime to keep it sustainable in a long-term perspective;

B. activate the younger elderly, especially by making pre-pension schemes and retirement age more diversified, so as to keep older workers, albeit in a variable and flexible way, in the work force;

C. strengthen intergenerational solidarity with a view to maintaining or redressing intergenerational equity in life opportunities and options;

i. in the domain of immigration:

A. develop comprehensive integration policies adjusted to the specific labour needs and reception capacity of the host country, including measures to give immigrants opportunities to participate in and contribute to the life of their host society.





Provisional edition

Population trends in Europe and their sensitivity to policy measures

Recommendation 1683 (2004)¹

1. Europe stands on a demographic threshold. After a century of natural population increase, the outlook for this century is rather natural decrease and excessive population ageing. A large part of Eastern European countries are already facing population decline and many of the Western countries are expected to experience the same phenomenon in the near future. Migration pressures from surrounding developing countries will, for a long time, continue to persist. Notwithstanding cross-country differences in intensity and pace of the demographic changes that will continue to persist, all European societies are or will be facing essentially the same trends with respect to population decline and population ageing.

2. Regarding parenthood, individuals may be happy with having no children or one or two only. Society by contrast needs to ensure intergenerational solidarity and continuity and this requires a substantial proportion of larger families. As far as longevity is concerned, people aspire for a long and healthy life but society needs to provide an age-friendly environment while maintaining intergenerational equity in all domains of social life.

3. It is likely that the recent, current and possible future changes in relational and reproductive behaviour are due to complex interrelations of accelerated changes in economic, cultural, ideological, social and technological features of advanced societies and cannot be resolved by simple or single and short-term policy measures.

4. A special case forms the recent fast and steep fertility decline in Eastern Europe, where the economic and political changes after the collapse of the communist regimes were accompanied by the abolishment or weakening of the social situation of women and the social protection system in general.

5. The effects of the recent social, cultural, economic and technological progresses are beneficial in many domains: for most people quality of life has increased, individual emancipation and development have progressed and in particular the social position of women has improved, leisure activities have increased and diversified, the health situation has improved and longevity has increased. On the other hand, recent modernisation and change in the socio-economic sphere have in most countries not achieved a harmonious relation between work and family life, have not yet fully realised equal opportunities for women and men, have not been able to maintain or to create a really child-friendly environment and have not offered long-term labour security, nor succeeded in offering healthy older citizens adequate access to employment.

¹ *Assembly debate* on 8 October 2004 (32nd Sitting) (see Doc. 10182, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Brunhart and Doc. 10320, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs McCafferty). *Text adopted by the Assembly* on 8 October 2004 (32nd Sitting).

6. The demographic challenges in the fields of population decline and excessive population ageing need to be addressed without endangering the fundamental human and societal goals and acquisitions of European democracies, including, inter alia, further improving the quality of life, further increasing participation rates in higher levels of education, further increasing the labour participation of women, young adults and younger elderly and offering long-term work opportunities, further increasing longevity, providing a generous and just social protection system.

7. The Programme of Action adopted at the International Conference on Population and Development (ICPD) in Cairo by 179 countries in 1994 represented the acknowledgement by the international community and by all signatory countries, including all Council of Europe member States, that the individual must be placed at the heart of all population, demographic and sustainable development policies. The ICPD Programme of Action, which marks ten years of implementation this year in 2004, is often heralded as a paradigm shift away from the purely demographic targets of the 1960s, 70s and 80s towards an approach which recognized the central and legitimate right for every individual, in this case particularly women, to make their own informed choices about if and when to found a family and the number and spacing of their children.

8. In general, demographic problems cannot be resolved by quick-fix solutions, short term-policies or simple or single measures. The current "toolbox" of population- and family-related policies has in most countries proven to be either insufficient or/and inadequate to address properly challenging population issues in Europe. Policies have to address the complexity of demographic-societal interactions and interdependencies. The complexity of demographic processes and their interaction with virtually all social domains requires in most areas both adaptive and modifying policies.

9. Without some considerable changing of present cultural values, socio-economic living conditions and policy context, it is unlikely that the coming decades will see a substantial and durable recovery of present fertility rates.

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

i. stimulate the emergence of common European policies in the domains of demographic developments and population-related issues;

ii. promote policies for a better harmonisation of family and working life, in particular in favour of women, including the creation of necessary child-care facilities;

iii. consider population impact of envisaged policy measures and recommendations in all domains of social life;

iv. encourage closer co-operation among the dispersed international research instruments in Europe for analysing and monitoring population developments and population related policies;

v. strengthen, in anticipation of a major reorganisation and broadening of the international comparative population research in Europe, the European Population Committee (CAHP) of the Council of Europe;

vi. include in the terms of reference of the European Population Committee (CAHP) that it may be called upon by the Parliamentary Assembly or one of its Committees to produce a short policy paper as a background document to be used in drawing up an Assembly report or as a contribution to an Assembly debate or hearing;

vii. call on member states to:

a. address the major demographic challenges in Europe also seeking information from the PCPD Programme of Action (Cairo, 1994);

b. pursue a general societal consensus on population goals and population-related policies;



Provisional edition

Education for Europe

Recommendation 1682 (2004)¹

1. The Council of Europe has been working for more than 50 years to bring the countries of Europe together around fundamental values, principles and rights. Education, which is essential for forming full citizens in democratic societies, has a central place in its work.
2. With recent changes, Europe is no longer divided between East and West. Nor is it limited to the countries of the European Union. This notion of a Europe without dividing lines in which each country has its place, regardless of the institutions or organisations to which it may or may not belong, needs to be defended. The Council of Europe needs to reaffirm its dynamic pan-European mission and its identity in the global context.
3. Young people are European citizens. It is therefore essential to explain Europe to them so that they feel concerned and are able to play a part. As part of their education, they should be given not only information about European institutions but also the means of understanding all Europe may stand for and taking an interest in it. To this end, they need to know how Europe came about and was built and about the work it has done if they are to understand the changes it has brought about at their own level.
4. The generic values of the Council of Europe, and in particular respect for human rights, political pluralism and the rule of law, have to be transmitted to the younger generation.
5. The wealth of Europe resides in its great cultural, religious and other diversity. Europeans therefore need to be brought to value all its benefits, learn to understand one another and realise that, aside from all the differences, they have many things in common. The emergence of a European awareness needs to be fostered among young people.
6. The Parliamentary Assembly therefore recommends that the Committee of Ministers call on governments and the appropriate authorities of member states to promote education for Europe by:
 - i. adapting the school curricula in order to add a European dimension to subjects already taught in primary and secondary schools and in higher education establishments;
 - ii. introducing the European dimension and European values in teacher training, including training the trainers and teacher exchange programmes;
 - iii. informing the Council of Europe of the action taken in this field at national level so that a guide to good practices on the subject can be produced and disseminated;

¹ *Assembly debate on 8 October 2004 (32nd Sitting)* (see Doc. 10203, report of the Committee on Culture, Science and Education, rapporteur: Mr Prisăcaru). *Text adopted by the Assembly on 8 October 2004 (32nd Sitting)*.

iv. involving the various institutions of civil society, not only schools but also such bodies as associations and municipalities, so that every opportunity can be taken to discuss Europe in all its diversity;

v. fostering use of the countless fresh possibilities afforded by the new information and communication technologies, such as establishing correspondence between schools or, more directly, between pupils in different European countries, undertaking research on other European countries and following current affairs in Europe.

7. It recommends that the Committee of Ministers:

i. recognise education as a major leverage in the European process and give support to education for Europe as a priority goal of European co-operation;

ii. invite Heads of State and Government at the forthcoming Third Summit in 2005 to establish the development of policies to promote Europe through education as a major element in the future work programme of the Council of Europe further to the designation of 2005 as "European Year of Citizenship through Education".

8. It further recommends that the Committee of Ministers:

i. draft a European framework Convention on education for democratic citizenship and human rights;

ii. institute programmes for the training of teachers in education for Europe.



Provisional edition

Campaign to combat domestic violence against women in Europe

Recommendation 1681 (2004)¹

1. The Parliamentary Assembly is extremely concerned about the extent and escalation of domestic violence against women and notes that this serious problem extends to all Council of Europe member states.

2. The acute nature of this problem must force Council of Europe member states to regard domestic violence as a national political priority and to deal with it in a broader political framework, with government, parliament and civil society involvement. Member states have an obligation under international law to act with due diligence to take effective steps to end violence against women, including domestic violence, and to protect its victims/survivors. If they do not themselves want to be held responsible, states must take effective measures to prevent and punish such acts by private actors and to protect the victims/survivors.

3. In Recommendation 1582 (2002) on domestic violence against women, the Assembly proposed various measures to combat such violence. It advocated that acts of domestic violence be made a criminal offence, that victims be afforded better judicial, psychological and financial protection and that a European year against domestic violence be held to ensure that such violence is no longer a taboo subject.

4. The Assembly notes that, when states conduct national awareness-raising campaigns and adopt appropriate legislative, judicial and financial measures, progress is achieved in the fight against domestic violence, for victims are better informed of their rights and members of the public are more aware of the seriousness of the problem. Hence it can but regret the failure of the Committee of Ministers, in its reply to Recommendation 1582 (2002), to take action on the call for a European campaign to be launched against domestic violence.

5. It remains convinced that the running of a pan-European campaign against domestic violence will encourage member states to take the urgent measures which are needed. Such a campaign, which could be conducted in close co-operation with the European Commission, the European Parliament and NGOs, should centre on three main lines: prevention, assistance for victims and the provision of information to the public.

6. The Assembly welcomes the various current initiatives in several national parliaments and already declares its willingness to take the necessary measures to contribute to their success. It also resolves to engage itself in the organisation and implementation of a pan-European campaign against domestic violence in 2006.

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

i. deal with the issue of domestic violence at the Third Council of Europe Summit;

¹ *Assembly debate on 8 October 2004 (32nd Sitting)* (see Doc. 10273, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Branger). *Text adopted by the Assembly on 8 October 2004 (32nd Sitting)*.

- ii. undertake to conduct a pan-European campaign against domestic violence in 2006, in co-operation with European and national players such as the European Commission, the European Parliament, associations and NGOs;
- iii. set up at the Council of Europe an ad hoc group having the task of:
 - a. defining and harmonising the various parameters for this pan-European campaign;
 - b. setting up follow-up machinery to evaluate states' progress;
 - c. establishing instruments for quantifying developments in domestic violence at pan-European level;
 - d. drawing up proposals for action for each member state so that they, at national level:
 - A. run a national awareness-raising campaign at the level of ministries and the general public, in close co-operation with national parliaments, local players, associations and NGOs;
 - B. step up protection and victim assistance measures, inter alia offering victims emergency assistance in the legal, medical, psychological and financial spheres and providing appropriate training to the police and members of the justice system and support to non-governmental organisations working with victims of domestic violence;
 - C. adopt criminal penalties for the perpetrators of acts of domestic violence, including marital rape, and provide for psychological support to prevent reoffending;
 - D. draw on the good practice of other member states, such as Austria, where the federal law of 1997 inter alia allows the police to prohibit the perpetrator of an act of violence from entering the family home and automatically provides protection and support for victims;
 - E. develop instruments for measuring, in quantitative and qualitative terms, developments in such violence and the effectiveness of measures to prevent and combat it;
 - F. report regularly to international human rights bodies on developments in domestic violence against women and measures taken to prevent and combat it.



Provisional edition

New concepts to evaluate the state of democratic development

Recommendation 1680 (2004)¹

1. The Parliamentary Assembly refers to its Resolution 1407 (2004) on new concepts to evaluate the state of democratic development.
2. It welcomes the publication of the green paper on "The Future of Democracy in Europe – Trends, Analysis and Reforms" commissioned by the Secretary General of the Council of Europe in the framework of the integrated project "Making democratic institutions work".
3. The final conference of this integrated project, which will take place in Barcelona from 17 to 19 November 2004, will provide an opportunity to governments, elected representatives and civil society to reflect together on the core principles of European democracy.
4. Consequently, the Assembly recommends that the Committee of Ministers, taking into account the activities already carried out by the Organisation in the field of democratic development:
 - i. identify as a priority the work towards strengthening democratic development in all member states and to include this into the action programme of the Third Summit of Heads of State and Government;
 - ii. instruct its competent steering committee to develop, in co-operation with the Assembly:
 - a. a code of good practice for political parties and their members as well as clear European guidelines on how political parties could be financed;
 - b. guidelines for petitions, popular initiatives and referendums, in particular at local and regional level;
 - c. model rules of procedure for parliamentary bodies, with particular emphasis on methods of parliamentary consultation and the participation of the public;
 - iii. analyse, in co-operation with the Assembly, the feasibility of creating, on the basis of a Convention, a committee which shall draw up a catalogue of fundamental democratic rights as protected by the Council of Europe and regularly prepare a critical analysis of the functioning of democratic institutions in Europe, and update it when necessary;
 - iv. monitor, in co-operation with the Assembly, the democratic development within the Council of Europe's institutions and present periodically progress reports in this respect.

¹ *Assembly debate on 8 October 2004 (32nd Sitting)* (see Doc. 10279, report of the Political Affairs Committee, rapporteur: Mr Severin). *Text adopted by the Assembly on 8 October 2004 (32nd Sitting)*.

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Provisional edition

The human rights situation in the Chechen Republic

Recommendation 1679 (2004)¹

1. The Assembly refers to its Resolution 1403 (2004) on the Human Rights Situation in the Chechen Republic, recalling that the continuing massive violations in the Chechen Republic are by far the most serious human rights issue in any of the Council's member states and that the credibility of the whole Organisation depends on its ability to convince the Russian Federation to meet its commitments in this respect.
2. Considering the insufficient progress in holding perpetrators of human rights violations responsible, the Assembly reiterates all the recommendations addressed to the Committee of Ministers in Recommendation 1600 (2003).
3. In view of the gravity of the human rights situation in the Chechen Republic, the Assembly recommends to the Committee of Ministers to ensure that the discussion and debate of the human rights crisis in the North Caucasus region of the Russian Federation remain a regular item on the agenda of the Committee of Ministers and Ministers' Deputies and to ensure that such discussions cover reports and the follow-up of the implementation of their own recommendations as well as recommendations made to the authorities by all other bodies and mechanisms of the Council of Europe including: the Secretary General, the Parliamentary Assembly, the Commissioner for Human Rights, the Committee for the Prevention of Torture, the Venice Commission and European Commission against Racism and Intolerance.
4. The Assembly invites the Committee of Ministers, in particular, to
 - i. urge the Government of the Russian Federation to take additional measures to eliminate the climate of impunity in the Chechen Republic and to ensure that anti-terrorism measures taken or planned are in conformity with standards of human rights and humanitarian law, including the European Convention on Human Rights, the Geneva Conventions and the Council of Europe Guidelines on Human Rights and the Fight against Terrorism;
 - a. by vigorously investigating and prosecuting all violations of human rights, without regard to the identity of the perpetrators;
 - b. by sending a clear signal, at the highest level, that all security and law enforcement officials must respect human rights in the execution of their duties at all times, and that any violations will be subject to severe sanctions;
 - c. by putting an end to reprisals against any person taken in relation to the filing of an application to the European Court of Human Rights, ensuring that all allegations of such crimes are investigated promptly, thoroughly and independently and that all persons found responsible for such crimes are brought to justice;

¹ *Assembly debate on 7 October 2004 (30th Sitting)* (see Doc. 10283, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig). *Text adopted by the Assembly on 7 October 2004 (30th Sitting)*.

- d. by enabling systematic monitoring by national and international human rights organisations of violations committed by all sides and of the measures taken by the competent authorities to track down and punish perpetrators;
 - e. by establishing as soon as possible an independent Ombudsman for the Chechen Republic, who shall receive and process complaints about human rights violations in the region and continue the work of the former Special Presidential Representative's Office, also making use of the files established by the latter, with the support of the Council of Europe experts;
 - f. by fully co-operating with all Council of Europe mechanisms, in particular with the Committee for the Prevention of Torture;
 - g. and by facilitating access to the region by the national and international news media;
- ii. step up the Council of Europe's co-operation with the Government of the Russian Federation, focusing on the development of the rule of law in the Chechen Republic and on concrete improvements of the human rights situation of the population of the Chechen Republic, in order to contribute to the implementation of the requests under sub-paragraph 4.i.;
- iii. establish concrete benchmarks toward progress in meeting the recommendations in Resolution 1403 (2004) and a timetable for their implementation.



Provisional edition

The political situation in the Chechen Republic: measures to increase democratic stability in accordance with Council of Europe standards

Recommendation 1678 (2004)¹

1. Referring to its Resolution 1402 (2004) on the political situation in the Chechen Republic, the Parliamentary Assembly considers that the Russian Federation must continue to benefit from the Council of Europe's assistance and co-operation programmes in order to improve the political situation in the Chechen Republic, states that aid and co-operation programmes of the Council of Europe with regard to the Chechen Republic contribute to the improvement of the political situation in the Chechen Republic and believes that the Russian Federation should continue to apply these programmes.

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

i. analyse the effectiveness of the Council of Europe co-operation programmes with the Russian Federation concerning the Chechen Republic with a view to adapting them to the current needs;

ii. set up a programme of co-operation with the Russian Federation concerning assistance projects in the Chechen Republic, which are aimed at:

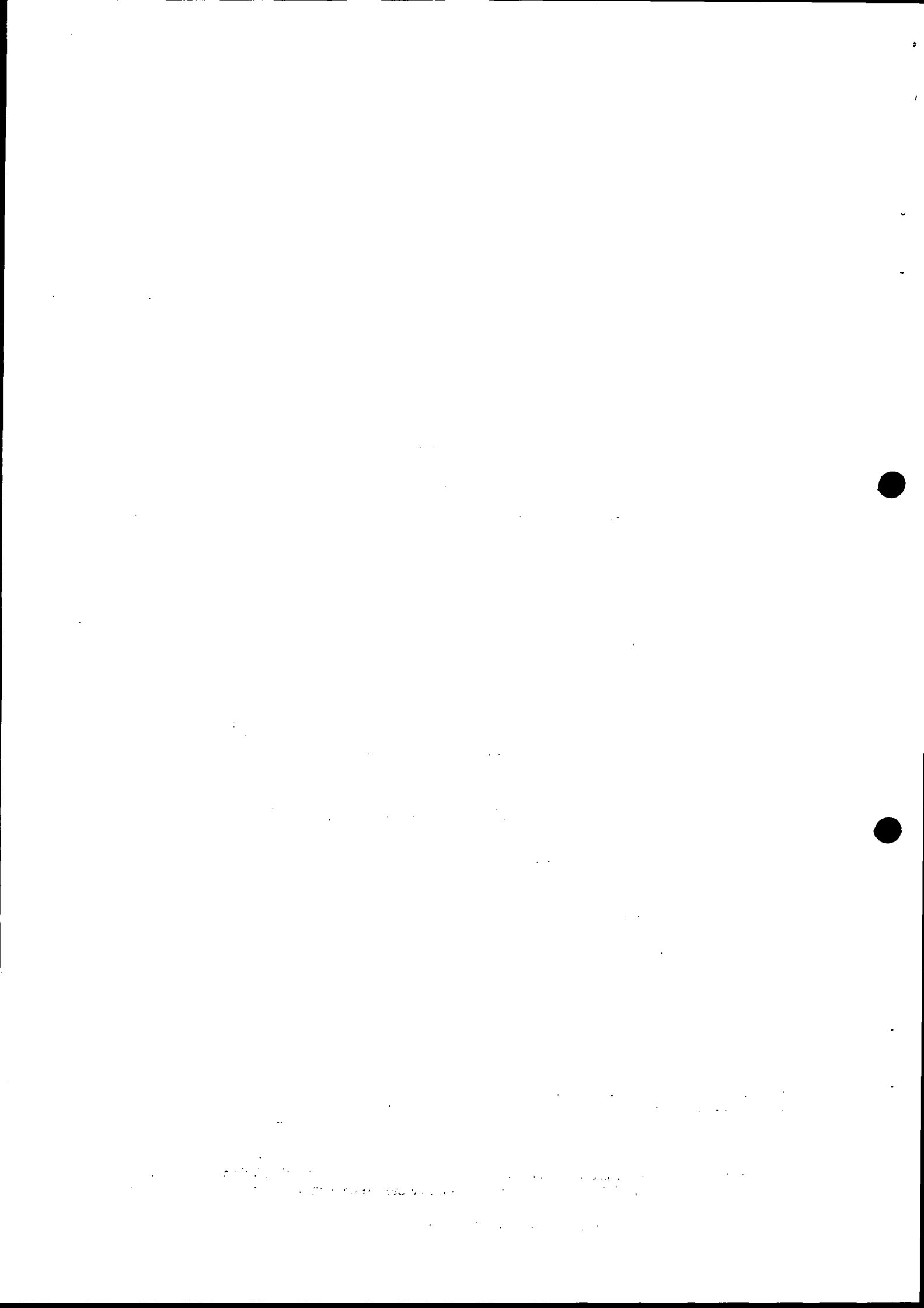
- a. strengthening the fight against terrorism and organised crime;
- b. strengthening awareness among political leaders of the vital importance of the rule of law;
- c. providing police with training in human rights;
- d. providing university and school teachers with educational support, particularly in subjects relevant to democratic citizenship;
- e. establishing projects for building up public confidence and reconciliation;
- f. providing teachers and religious communities with assistance in teaching religious tolerance and secularism;
- g. establishing projects for young political and social leaders in Chechnya;

iii. call on the Russian Federation to accede to the Council of Europe's Agreement establishing the Group of States against Corruption (GRECO) to actively fight corruption and organised crime;

iv. call on member and observer governments to allocate financial assistance programmes for the Chechen Republic for strengthening democracy, good governance and the rule of law as well as for direct humanitarian aid;

v. call on member and observer governments to work towards stopping the proliferation of weapons and arms in the Chechen Republic and to assist the competent authorities in collecting and destroying land mines in Chechnya.

¹ *Assembly debate on 7 October (30th Sitting)* (see Doc.10276, report of the Political Affairs Committee, rapporteur: Mr Gross). *Text adopted by the Assembly on 7 October 2004 (30th Sitting)*.





Provisional edition

Women's participation in elections

Recommendation 1676 (2004)¹

1. Women have made great strides regarding their right to participate in elections in the last century. They fought hard for – and obtained – the right to vote and to be elected. These rights are no longer disputed. Women have also made other significant political advances but progress to full democratic participation has been uneven.

2. Today, women's effective participation in elections is threatened by two developments: as regards the right to vote, in a number of European countries, some women are being prevented from freely casting their own vote by such undemocratic practices as "family voting". As regards the right to be elected, in nearly all European countries, women continue to be underrepresented in elected office.

3. "Family voting" occurs in three ways: in group voting, where a male family member accompanies one or more women relatives into a polling booth; in open voting, when family groups vote together in the open; and in proxy voting, where a male family member collects ballot papers belonging to one or more women relatives and marks those papers as he sees fit. "Family voting" is an undemocratic practice which disenfranchises women voters and should not be tolerated.

4. The underrepresentation of women in elected office hampers the full democratic development of most Council of Europe member states, as only one country (Sweden) has achieved the parity threshold set out in Recommendation Rec(2003) 3 of the Council of Europe's Committee of Ministers on balanced participation of women and men in political and public decision making, i.e. 40% representation in Parliament on the national level. The presence of women in parliaments and other elected assemblies is a key component of democracy. Increasing the proportion of women in elected office would be an efficient route to social and democratic change which would benefit women and men alike.

5. Council of Europe member states therefore have the duty to ensure that European standards within the democratic election process are met and that women are given a fair chance both to freely elect the candidate of their choice and to be elected themselves.

6. The Parliamentary Assembly thus recommends that the Committee of Ministers draw up a "Charter for Electoral Equality" (if appropriate, asking the opinion of the Venice Commission) in which Council of Europe member States would subscribe to concerted action to guarantee women's electoral rights and to improve the electoral participation of women. This Charter should:

- i. include all measures necessary to outlaw and eliminate "family voting", in particular by:
 - a. organising awareness-raising campaigns during pre-election periods accentuating that "family voting" is a serious violation of electoral rights;
 - b. enabling sub-literate voters to make an individual decision by designing ballot papers sensitive to voters' needs (including for example dual-language ballot papers, party symbols and/or photos);

¹ *Assembly debate on 5 October 2004 (27th Sitting)* (see Doc.10202, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Mooney). *Text adopted by the Assembly on 5 October 2004 27th (Sitting)*.

- c. training electoral commissions' officials in the conduct of democratic polling, with particular attention paid to the prevention of family voting;
 - d. introducing sanctions against electoral commissions' officials in polling stations where family voting is detected and invalidating the results of voting in these polling stations;
 - e. outlawing proxy voting;
- ii. set the objective to increase the representation of women in parliament and other elected assemblies to the level of at least 40% by the year 2020, in particular by:
- a. removing any constitutional or legal barriers to positive measures aiming at gender parity;
 - b. encouraging political parties to adopt positive measures to ensure increased representation of women candidates;
 - c. adopting legislative reforms to introduce parity thresholds for candidates in elections at local, regional, national and supra-national levels;
 - d. inviting speakers of parliaments to ensure a discrimination- and harassment-free environment conducive to conciliation of private and political life;
 - e. where electoral systems are shown to have a negative impact on the political representation of women in elected bodies, adjusting or reforming those systems to promote gender-balanced representation;
 - f. instituting gender-neutral quotas for required numbers of female and male candidates on party lists. Double quota (e.g. zipping) systems are especially recommended because they ensure that women are sufficiently well placed to be elected. Quotas should be time-limited and proportionate;
 - g. taking action through the public funding of political parties in order to encourage them to promote gender equality;
 - h. applying these measures to all elected posts, such as Presidents and Mayors where applicable, as well as to all bodies constituted as a result of elections, such as governments;
 - i. adopting appropriate legislative and/or administrative measures to ensure that there is gender-balanced representation in all national delegations to international organisations and fora;
 - j. developing specific training and publicity packages to encourage women candidates to contest elections ;
 - k. ensuring equal access to the mass media to male and female candidates and encouraging media professionals to give equal visibility to female and male candidates and elected representatives in the media, especially during election periods.
7. The Assembly calls on all Council of Europe member states to undertake awareness-raising measures, including gender education, in order to bring about a lasting change of attitudes and traditions to ensure the full participation of women in elections at all levels and in all respects.
8. Finally, the Parliamentary Assembly also recommends that national parliaments and international organisations which carry out election monitoring, including the Assembly itself, try to attain gender balance when appointing the members of election observation missions. In addition, the gender dimension of electoral participation should be appropriately monitored during such missions.



Provisional edition

Challenge of terrorism in Council of Europe member states

Recommendation 1677 (2004)¹

1. The Parliamentary Assembly refers to Resolution 1400 (2004), to the many Resolutions, Recommendations and Orders which it has adopted on terrorism since 1972 and to the action taken by the Committee of Ministers for the purpose of introducing, within the Council of Europe, co-ordinated measures to counter terrorism.
2. The Assembly refers in particular to Recommendation 1426 (1999) where it considered an act of terrorism to be "any offence committed by individuals or groups resorting to violence or threatening to use violence against a country, its institutions, its population in general or specific individuals which, being motivated by separatist aspirations, extremist ideological conceptions, fanaticism or irrational and subjective factors, is intended to create a climate of terror among official authorities, certain individuals or groups in society or the general public".
3. In spite of undeniable progress with the introduction of convention-based European co-operation on action against terrorism, the Council of Europe's collective response to the growing threat of terrorism remains insufficient.
4. Failings in national and European legislation on the suppression and prevention of terrorism still leave the way open for trafficking in arms, munitions and funds for international terrorism and for movement of persons associated with terrorism in Council of Europe member states.
5. The global nature of the terrorist threat makes total cohesion and solidarity within the international community, unwavering political determination and full and effective co-operation between Council of Europe member states, essential. The security of Europeans in the face of terrorism is indivisible.
6. The Assembly notes that, following the terrorist attacks of September 2001, the Committee of Ministers attempted to intensify co-operation between Council of Europe member states against terrorism, particularly within the Committee of Experts on Terrorism (CODEXTER).
7. The Assembly nonetheless considers that a more sustained commitment on the part of member states is needed to ensure an adequate response to the challenge of terrorism.
8. The Assembly asks the Committee of Ministers to:
 - i. intensify its efforts to establish a common legal area for action against terrorism in Europe, based on human rights and the fundamental values of the Council of Europe and, for this purpose to:

¹ *Assembly debate* on 6 October 2004 (28th Sitting) (see Doc.10312, report of the Political Affairs Committee, rapporteur: Mr Kosachev). *Text adopted by the Assembly* on 6 October 2004 (29th Sitting).

- a. start the preparation of a comprehensive Council of Europe Convention against terrorism, as it was requested by Assembly Opinion No. 242 (2003) and Recommendation 1644 (2004);
 - b. conclude, in the meantime, without delay its work on remedying existing omissions in international law or action taken against terrorism, by adopting instruments on which member states can reach a consensus;
 - c. analyse the effectiveness of Council of Europe conventions and other international instruments on combating terrorism and, on the basis of that analysis, draw up protocols to render those instruments capable of responding to the new terrorist threats;
 - d. review European Union experience with the European arrest warrant and to look into creating a legal basis for extending its applicability to Council of Europe member states;
 - e. promote a homogeneous definition of the crime of terrorism in the law of member states and at international level, along the lines of afore-mentioned Recommendation 1426 (1999);
 - f. intensify work on drawing up a Council of Europe Convention on reinforcing the protection of witnesses and pentiti (reformed criminals) in the context of acts of terrorism, the protocol to the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and a recommendation on special investigation techniques in relation to acts of terrorism;
 - g. begin the groundwork for setting up a European register of national and international standards so as to provide a system for computer access to the law of member states of the Council of Europe and other European organisations and for exchange of legal information;
 - h. establish a partnership between the Council of Europe and the European Union and create, in addition to the EU's own anti-terrorism coordination work, a joint framework for practical cooperation and information-sharing which involves all Council of Europe member states and develop enhanced co-operation with the United Nations, the OSCE and other international organisations;
 - i. initiate a special programme, enabling exchanges of experience and best practice, for persons with operational responsibilities in the member states for handling concrete crisis situations, in order to ensure that they are highly professional and adequately trained so as to minimise risks to human lives;
 - j. finalise as soon as possible the elaboration of guidelines on the rights of victims and the corresponding duties of member states to provide all necessary assistance and to create a forum for the exchange of good practice and training experiences between member states;
 - k. undertake a study on the acceptable limits of freedom of expression and the possible abuse of that freedom by terrorists;
- ii. ask the member states to:
- a. increase multilateral co-operation and reciprocal assistance concerning the prevention and punishment of acts of terrorism;
 - b. bring the Protocol amending the European Convention on the Suppression of Terrorism (2003) into force as soon as possible;
 - c. sign and/or ratify, if they have not yet done so, the Council of Europe's conventions on action against terrorism;
- iii. repeat the appeal to member states, made in Assembly Recommendations 1534 and 1644, to "give urgent consideration to amending and widening the Rome Statute to allow the remit of the International Criminal Court to include acts of international terrorism";

iv. turn its attention once again to the relevant parts of the earlier Assembly Recommendations, and particularly Recommendation 1644 (2004), in which the Assembly asked the Committee of Ministers, inter alia:

a. to invite the member states

A. "to condemn strongly countries encouraging, helping, providing financial support, or offering safe haven to terrorists and introduce economic and other appropriate measures against them";

B. "to promote democracy and human rights in their foreign relations and refrain from complacency towards despotic and obscurantist regimes for reasons of strategic and economic interests";

b. "to study, in consultation with the European Union, the possibility of transforming Europol into an effective pan-European agency, with sufficient means to challenge international terrorism".

9. The Assembly wishes to be fully informed about work on action against terrorism done by the Committee of Ministers and by committees and working parties which it establishes.

10. The Assembly recommends that the Committee of Ministers include the question of European co-operation in the fight against terrorism on the agenda for the third Council of Europe Summit.

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