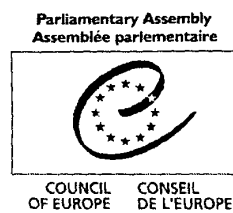


Parliamentary Assembly
Assemblée parlementaire



2005 SESSION

First Part

24 – 28 January 2005

TEXTS ADOPTED

BY

THE ASSEMBLY

**List of texts adopted
by the Assembly
(24 – 28 January 2005)**

TEXTS ADOPTED IN CHRONOLOGICAL ORDER BY CATEGORY

N°	Title	Doc.
Opinion No. 253 (2005)	Draft Council of Europe Convention on action against trafficking in human beings	10397
Opinion No. 254 (2005)	Draft Convention on laundering, the financing of terrorism, search, seizure and confiscation of the proceeds from crime	10392
Opinion No. 255 (2005)	Draft Convention on the prevention of terrorism	10423
Recommendation 1690 (2005)	The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference	10364
Recommendation 1691 (2005)	Protection of human rights in Kosovo	10393
Recommendation 1692 (2005)	The circumstances surrounding the arrest and prosecution of leading Yukos executives	10368
Recommendation 1693 (2005)	The Third Summit	10381
Recommendation 1694 (2005)	Relations between Europe and the United States	10353
Resolution 1415 (2005)	Honouring of obligations and commitments by Georgia	10383
Resolution 1416 (2005)	The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference	10364
Resolution 1417 (2005)	Protection of human rights in Kosovo	10393
Resolution 1418 (2005)	The circumstances surrounding the arrest and prosecution of leading Yukos executives	10368
Resolution 1419 (2005)	Genetically Modified Organisms (GMOs)	10380
Resolution 1420 (2005)	Prospects for peace in the Middle East	10427
Resolution 1421 (2005)	Relations between Europe and the United States	10353
Resolution 1422 (2005)	Europe and the Tsunami Disaster	10428
Resolution 1423 (2005)	What solutions to Europe's unemployment?	10359
Resolution 1424 (2005)	Boosting social cohesion and employment: more and better jobs	10265
Resolution 1425 (2005)	Revision of the terms of reference of Assembly committees	10379

TEXTS ADOPTED BY THEME

N°	Title	Doc.
<i>Political Affairs</i>		
Recommendation 1690 (2005) Resolution 1416 (2005)	The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference	10364
Recommendation 1693 (2005)	The Third Summit	10381
Recommendation 1694 (2005) Resolution 1421 (2005)	Relations between Europe and the United States	10353
Resolution 1420 (2005)	Prospects for peace in the Middle East	10427
<i>Legal Affairs and Human Rights</i>		
Recommendation 1691 (2005) Resolution 1417 (2005)	Protection of human rights in Kosovo	10393
Recommendation 1692 (2005) Resolution 1418 (2005)	The circumstances surrounding the arrest and prosecution of leading Yukos executives	10368
Opinion No. 254 (2005)	Draft Convention on laundering, the financing of terrorism, search, seizure and confiscation of the proceeds from crime	10392
Opinion No. 255 (2005)	Draft Convention on the prevention of terrorism	10423
<i>Economic Affairs and Development</i>		
Resolution 1423 (2005)	What solutions to Europe's unemployment?	10359
<i>Social, Health and Family Affairs</i>		
Resolution 1422 (2005)	Europe and the Tsunami Disaster	10428
Resolution 1424 (2005)	Boosting social cohesion and employment: more and better jobs	10265
<i>Environment, Agriculture and Local and Regional Affairs</i>		
Resolution 1419 (2005)	Genetically Modified Organisms (GMOs)	10380
<i>Equal opportunities for women and men</i>		
Opinion No. 253 (2005)	Draft Council of Europe Convention on action against trafficking in human beings	10397
<i>Rules of Procedure and Immunities</i>		
Resolution 1425 (2005)	Revision of the terms of reference of Assembly committees	10379
<i>Honouring of Obligations and Commitments by Member States of the Council of Europe</i>		
Resolution 1415 (2005)	Honouring of obligations and commitments by Georgia	10383

Provisional edition

Draft Council of Europe Convention on action against trafficking in human beings

Opinion No 253 (2005)¹

1. Coming in third place worldwide after drugs and arms, trafficking in human beings is a scourge which threatens the whole field of fundamental human rights and which must be eradicated. Despite the mobilisation of the authorities in all countries and the active involvement of various non-governmental organisations, the problem is still on the increase.

2. Every year, thousands of human beings, primarily women and children, are the victims of trafficking carried out with the aim of sexual exploitation, slavery, forced labour, forced marriage or other purposes, both within and outside the borders of their countries. Trafficking in human beings has now reached such an unprecedented scale that it can be described without exaggeration as a new form of slavery. This is why measures are desperately needed to combat such trafficking, while at the same time paying constant attention to protecting its victims.

3. The Parliamentary Assembly recalls that in 1997, in Recommendation 1325 on traffic in women and forced prostitution in Council of Europe member states, it asked the Committee of Ministers to draw up a European Convention on Trafficking in Women, open to non-member states. It explicitly repeated this request in its Recommendation 1545 (2002) on a campaign against trafficking in women.

4. It welcomes the decision of the Committee of Ministers to draw up a European Convention on action against trafficking in human beings.

5. It notes with satisfaction that the Preamble to the draft Convention explicitly refers to trafficking in human beings as a violation of human rights and as an offence to the dignity and the integrity of the human being.

6. It wholeheartedly welcomes the extremely broad scope of the Convention, which covers all forms of trafficking, both national and transnational, and linked or not to organised crime.

7. The Assembly is very pleased that the terms of reference given to the Committee of Experts responsible for drafting the text (CAHTEH) put particular emphasis on protection and assistance for victims, indicating that the goal pursued is the same as that proposed in its aforementioned Recommendation.

8. It nevertheless regrets the fact that the current wording of the draft is far from guaranteeing effective and sufficient protection of victims, contrary to the objective pursued. The Assembly cannot avoid the impression that the Council of Europe member states are not willing to make the difference between illegal migration and trafficking in human beings. The measures for the protection of victims, which should be at the heart of the Convention, have become weaker in the course of the negotiations. The current draft Convention rather gives the impression of

¹ *Assembly debate* on 26 January 2005 (5th Sitting) (see Doc.10397, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Vermot-Mangold and Doc. 10433, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr McNamara. *Text adopted by the Assembly* on 26 January 2005 (5th Sitting).

reflecting the member states' desire to protect themselves from illegal migration instead of accepting that trafficking in human beings is a crime and that its victims must be protected. In its current form, the Convention thus loses much of its force and ends up as not very convincing.

9. This comment applies in particular to the recovery and reflection period for victims (Article 13 of the draft Convention). The Assembly considers it necessary to provide for a minimum period during which victims can recover and decide, under optimum conditions, whether or not to co-operate with the judicial authorities. The criticism also applies to the excessively vague wording of Article 14 regarding the issuing of a residence permit. The same again holds for the provision on non-punishment of victims whose vague wording raises doubts as to the genuineness of the will to protect victims who have been forced to commit offences.

10. The Assembly regrets the fact that civil society was not sufficiently closely involved in formulating the text and that the increased powers and recent enlargement of the European Union hampered any genuine negotiation process within the CAHTEH.

11. The Assembly has long been warning against the pernicious consequences of "à la carte conventions", under which signatory states can declare themselves to be bound by some provisions but not by others. The Assembly therefore asks that the only reservation foreseen in Article 45 of the current draft of the Convention be deleted.

12. The Assembly also regrets that, firstly, the text has been drafted in such a way as to leave States a wide margin of discretion. It would be better for the Convention to leave less leeway for each state's domestic legal system and Community law in defining the concepts. Secondly, the Assembly deplores the fact that some provisions in the draft are not binding which weakens the scope of the commitments entered into by states. In view of the gravity of the trafficking phenomenon addressed, the Assembly considers that all the provisions of such a Convention must be binding (cf. Articles 6, 7, 14 and 19 in particular).

13. The Assembly welcomes that a monitoring mechanism has been established by the text. It considers a group of independent experts to be the right kind of body to effectively ensure the implementation of the Convention. The option chosen (GRETA), viz applying the same monitoring mechanism to all Parties, finds the Assembly's approval. However, the Assembly considers that – the Convention being a Council of Europe Convention even if non-member states or the European Union may agree to be bound by it – GRETA should report to the Council of Europe Committee of Ministers. The Committee of Ministers should also retain the right to address recommendations to the Parties and the right to decide on amendments to the Convention.

14. Consequently, the Assembly advises the Committee of Ministers to make the following amendments, which it considers essential, to the draft Convention:

- i. in Article 6:
 - a. replace "such as" with "including";
 - b. reword paragraph d. as follows: "preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being";
 - c. add the following new paragraph e.: "provisions criminalising and punishing the intentional use of the services of victims of trafficking";
- ii. in Article 7:
 - a. in paragraph 1, add "and to the right of asylum" after "free movement of persons";
 - b. delete paragraphs 3 and 4
 - c. in paragraph 6, replace "shall consider strengthening" by "shall strengthen";

- iii. in Article 8:
 - a. delete "within available means";
 - b. add a new paragraph c, worded as follows: "to deliver personal documents to every travelling child";
- iv. in Article 10:
 - a. in paragraph 1, after the words "trafficking in human beings", add the words "and in identifying and assisting victims including children";
 - b. in paragraph 1, add "in a procedure duly taking into account the special situation of female and child victims" after "with a view to enabling an identification of victims"
 - c. in paragraph 2, delete "of an offence provided for in Article 18 of this Convention" and "by the competent authorities";
 - d. add the following sentence to the end of paragraph 2: "The persons concerned shall be granted the right to appeal to an independent and impartial body against such decisions.";
 - e. in paragraph 4, delete "and is unaccompanied";
 - f. in paragraph 4, add: "d. appoint a relevantly-experienced lawyer to represent the child";
- v. in Article 12:
 - a. in paragraph 1, add the words "and members of their families if necessary", after the word "victims";
 - b. in paragraph 1.b replace "emergency" by "necessary";
 - c. in paragraph 1, insert after sub-paragraph e.: "f. access to education for children";
 - d. reword paragraph 2 as follows: "Each Party shall satisfy the safety and protection needs of victims, and, if necessary, of their family members.";
 - e. in paragraph 3, delete "lawfully resident within the territory of the Party concerned";
 - f. in paragraph 4, delete "lawfully resident within the territory of the Party concerned";
 - g. in paragraph 4, replace "shall adopt the rules under which victims ... shall be authorised" with "shall authorise victims";
 - h. in paragraph 6, replace "to a child victim" with "to a victim", and delete "child's";
 - i. in paragraph 6, delete the second and third sentence;
 - j. add the following paragraph 7: "For the implementation of the provisions set out in this Article, each Party shall ensure that services are provided on a consensual and informed basis, with due account being taken of the age and sex of the victim and specific needs of children in terms of housing, education and appropriate health care."
- vi. in Article 13:
 - a. in paragraph 1, add "of at least thirty days" after the words "a recovery and reflection period";

- b. add the following sentence to the end of paragraph 1: "The authorities shall issue the persons concerned with a residence permit covering this period.";
 - c. add the following to the end of paragraph 2: "and children shall be granted access to education";
- vii. in Article 14:
 - a. reword the first three paragraphs as follows:
 - "1. Each Party shall provide victims with a renewable residence permit of at least six-month' length:
 - (a) either so that they can take part in judicial or criminal proceedings concerning them, *inter alia* with a view to obtaining compensation;
 - (b) or where their stay is necessary owing to their personal situation, particularly in cases where they have suffered or are liable to suffer serious abuse such as physical or sexual violence, or renewed trafficking.
 - Residence permits for child victims shall in all cases be issued in accordance with the best interests of the child. If a child victim participates in judicial proceedings, the Party concerned shall ensure that the procedure is appropriate to the age and maturity of the child.
 - 2. The residence permit shall be renewed on expiry of the six-month period provided that the conditions set out in paragraph 1 are still fulfilled. Residence permits for child victims shall be renewed until such time as a lasting solution has been found.
 - 3. Parties shall envisage issuing a permanent or long-term residence permit where the victim is in a particularly vulnerable personal situation";
 - b. add a new paragraph 6 worded as follows: "Each Party facilitates family reunion throughout the period of legal residence of victims, in particular for unaccompanied children.";
- viii. in Article 15:
 - a. add the following at the end of paragraph 1: ", in a language which they can understand. They shall also have access to the justice system in order to obtain reparation.";
 - b. replace "and for the conditions under which the victim may benefit from free legal aid" at the end of paragraph 2 with "and the right to free legal aid, *inter alia* during court proceedings, if necessitated by the victim's situation";
- ix. in Article 16:
 - a. in paragraph 2, add after the words "dignity of that person" the phrase ", following a risk and security assessment,";
 - b. at the end of paragraph 2, add the following sentence: "If the return concerns a child victim, such return shall be undertaken in a child-sensitive manner, in accordance with the age and vulnerability of the child";
- x. in Article 18, delete "when committed intentionally";
- xi. in Article 19: replace "consider adopting" by "adopt";
- xii. in Article 20 a.: in the English version replace "producing a fraudulent" by "forging a";
- xiii. in Article 23 paragraph 4: add "and/or in which its victims were exploited" after "trafficking in human beings";

- xiv. in Article 24 a.: delete the adjective "gross";
- xv. in Article 26: replace the provision with the following: "Victims of trafficking shall not be detained, charged, prosecuted or submitted to any sanction on the grounds that they have unlawfully entered or are illegally resident in countries of transit and destination, or for their involvement in unlawful activities of any kind to the extent that such involvement is a direct consequence of their situation as victims of trafficking.";
- xvi. in Article 27 paragraph 3:
- a. at the end of the sentence, replace "to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence established in accordance with Article 18 of this Convention" with "the possibility of initiating or commissioning investigations or prosecutions concerning the offence established in accordance with Article 18 of this Convention and the possibility of assisting and/or supporting the victim with his or her consent during the criminal proceedings relating to the said offence";
- b. add the following sentence: "Each Party shall ensure that the said groups, foundations, associations or non-governmental organisations have the right to participate as a party in criminal proceedings concerning the said offence.";
- xvii. in Article 28:
- a. add a new indent (e) to paragraph 1: "if necessary, members of the groups, foundations, associations or non-governmental organisations, which carry out any of the activities set out in Article 27 paragraph 3";
- b. in paragraph 2, add "asylum, resettlement in a third country, " after "relocation";
- xviii. in Article 29, paragraph 1, last sentence: replace "should" with "shall";
- xix. in Article 31 (a), after "territory" add "or within its jurisdiction";
- xx. in Article 31: add an indent (f) with the following: "by anyone placed under its authority or effective control, situated in a territory over which it exercises authority or effective control";
- xxi. delete paragraph 2 from Article 31;
- xxii. in Article 33, paragraph 2, after the words: "in the search for missing people", insert the words ", particularly for missing children";
- xxiii. in Article 38, after paragraph 4, insert the following:
- "The Contracting Parties to this Convention recognise the right of the international non-governmental organisations which have consultative status with the Council of Europe and the representative national non-governmental organisations within the jurisdiction of the Contracting Party against which they have lodged a complaint to submit complaints alleging unsatisfactory application of the Convention. GRETA shall be competent to examine collective complaints";
- xxiv. in Article 38, paragraphs 6 and 7: replace "Committee of the Parties" with "Council of Europe Committee of Ministers";
- xxv. in Article 45, delete ", with the exception of the reservation of Article 31, paragraph 2".
15. Furthermore, the Assembly recommends, in the interests of terminological clarity, replacing the words "also taking gender equality aspects into consideration" in Article 1 paragraph a. and in Chapter III with "guaranteeing gender equality", and deleting the word "aspects" from the heading of Article 17, which would thus read "Gender equality".

16. Lastly, in connection with the reservations expressed by the European Community as represented by the European Commission, the Assembly would stress that it is expressing its opinion on the draft as submitted to it and that in any case it would consider any proposal from the Commission at this stage in the preparation of the Convention as having been submitted out of time. In any case, the Assembly insists that the member states of the European Community should be subject to the same monitoring mechanism as all other states parties to the Convention.

17. The Assembly emphasises that it is not certain that it will be able to maintain its support for the Convention if the most important amendments proposed, those which concern the protection of victims of trafficking and those which insist on the binding nature of the Convention's provisions, are not adopted by the Committee of Ministers.

18. The Assembly urges the Committee of Ministers to reconvene the CAHTEH before the next session of the Committee of Ministers in March 2005, in order to consider the Assembly's recommendations as well as those made by non-governmental organisations. Given the lack of consultation to date on the draft Convention in most states and the NGOs' key role in assisting victims, representatives of the Assembly's committees concerned as well as relevant NGOs should be invited to attend and participate.

Provisional edition

Draft Convention on laundering, the financing of terrorism, search, seizure and confiscation of the proceeds from crime

Opinion No 254 (2005)¹

1. The Parliamentary Assembly welcomes the draft Convention on laundering, the financing of terrorism, search, seizure and confiscation of the proceeds from crime, which it considers to be an important, timely and valuable contribution to European efforts in this field. It supports the aim of the significant revisions to the earlier Convention on laundering, search, seizure and confiscation of the proceeds from crime and in particular application of the extended provisions to the especially serious matter of financing of terrorism.

2. Whilst the intent and purpose motivating the draft Convention are to be encouraged, some of its provisions as currently expressed may be or result in measures which are inconsistent with fundamental rights, including the existing obligations of potential Parties under the European Convention on Human Rights and its additional Protocols. These measures should therefore be revised with the aim also of strengthening the Convention by avoiding future obstacles to ratification or implementation, in accordance with the fundamental principle of the rule of law.

3. The Assembly therefore recommends that the Committee of Ministers make the following amendments to the draft Convention:

- i. replace the title of the Draft Convention with the words "Convention on laundering, search, seizure, confiscation of the proceeds from crime and the financing of terrorism";
- ii. in Article 1 ("Use of terms"), at the end of paragraph c, add the sentence "Such intent may be inferred from objective, factual circumstances";
- iii. in Article 2 ("Application of the Convention to the financing of terrorism"), paragraph 2, before the words "financing of terrorism" add the words "offence of", and after the words "to this end" add the words "to other Parties";
- iv. in Article 3 ("Confiscation measures"), at the end of paragraph 1, add the words "consistent with the principle of proportionality and with full respect for the rights of third parties";
- v. in Article 3, paragraph 5, after the words "legal system" add the words "subject to appropriate procedural safeguards consistent with their obligations under the European Convention on Human Rights and its protocols";
- vi. in Article 7 ("Investigative powers and techniques"), paragraph 1, after the first sentence add the new sentence "Such measures must ensure respect for the principle of proportionality";

¹ *Assembly debate* on 27 January 2005 (7th Sitting) (see Doc.10392, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany). *Text adopted by the Assembly* on 27 January 2005 (7th Sitting).

- vii. in Article 7, paragraph 2.a., after the word "bank" add the words "or non-banking financial institution"; in paragraph 2.b., delete the words "bank" and "banking"; and in paragraph 2.d., after the word "banks" add the word "or non-banking financial institutions", and replace the words "the bank customer" with the words "their customers" (English only);
- viii. in Article 8 ("Legal remedies"), change the title of the Article to "Rights and remedies" and add a new paragraph 1 as follows: "Nothing in this Convention shall be construed in a manner which would violate or allow violations of the rights contained in the European Convention on Human Rights and those of its protocols by which a Party is bound";
- ix. in Article 8, retain reference to Articles 6 and 7;
- x. in Article 9 ("Laundering offences"), paragraph 3, replace all the words following the words "this Article" (including the sub-paragraphs) with the words "where objective, factual circumstances indicate that the offender ought to have suspected that the property was proceeds";
- xi. in Article 9, at the end of paragraph 5, add the sentence "Each Party shall ensure that at any trial for money laundering, the prosecution is required to submit charges against a defendant relating to all categories of offence disclosed by its evidence, consistent with national provisions on joinder and severance of charges, or be prevented from bringing such charges at a later date";
- xii. in Article 9, paragraph 6, replace the words "a predicate offence" with the words "amongst a proven series of predicate offences"; and at the end of the paragraph replace the word "offence" with the words "of these offences generated the proceeds in question";
- xiii. in Article 10 ("Corporate liability"), after the words "liable for" replace the word "the" with the words "a lack of due diligence in preventing or reporting"; replace the words "who has" by the words "by abusing"; and add the word "relevant" in sub-paragraph a. before the word "power", in sub-paragraph b. before the word "decisions" and in sub-paragraph c. before the word "control";
- xiv. in Article 10, delete paragraph 2;
- xv. if amendment xiii above is not adopted, in Article 10, in paragraph 2, after the words "liable where", replace the word "the" with the words "a culpable";
- xvi. in Article 12 ("Measures to prevent money laundering"), in paragraph a., replace the words "legal and natural persons which engage in activities which are particularly likely to be used for money laundering purposes" with the words "designated non-financial businesses and professions as defined in Appendix II of this Convention"

and add the following Appendix II to the Convention :

"Appendix II

"Designated non-financial businesses and professions" means amongst others:

- a) Casinos (which also includes internet casinos).
- b) Real estate agents.
- c) Dealers in precious metals.
- d) Dealers in precious stones.
- e) Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to 'internal' professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- f) Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties:
 - acting as a formation agent of legal persons;
 - acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;

- acting as (or arranging for another person to act as) a trustee of an express trust;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.”;

xvii. in Article 12 (“Measures to prevent money laundering”), at the end of paragraph 2.a.ii. add the words “whilst respecting the principles of legal privilege and confidential lawyer-client relations”;

xviii. in Article 27 (“Grounds for refusal”), add a new paragraph 1 as follows: “Co-operation under this chapter shall be refused where the action sought would result in violation of the rights protected by the European Convention on Human Rights and those of its additional protocols by which the Party may be bound”;

xix. in Article 27, paragraph 1, add a new sub-paragraph a. as follows: “where the requested Party has substantial grounds for believing that the request is made for the purpose of prosecuting a person for reasons of race, religion, nationality or political opinion, or that the situation of that person risks being prejudiced for one or more of those reasons”;

xx. in Article 31 (“Recognition of foreign decisions”), add a new paragraph 2 as follows: “Recognition shall be refused if it emerges that the decision is the result of a flagrant denial of justice”;

xxi. in Article 44 (“Damages”), add a new paragraph 1 as follows: “Each Party shall ensure that compensation is made available to persons whose property has been subject to measures of confiscation, freezing or seizure which subsequently transpire to have been unjustified”;

xxii. in Article 47 (“Monitoring mechanism and settlement of disputes”), ensure that, whatever internal mechanisms the Parties may establish, the eventual monitoring mechanism is ultimately singular, ensuring that all Parties are subject to the same obligations;

xxiii. in Article 51 (“Relationship to other conventions and agreements”), delete paragraph 4;

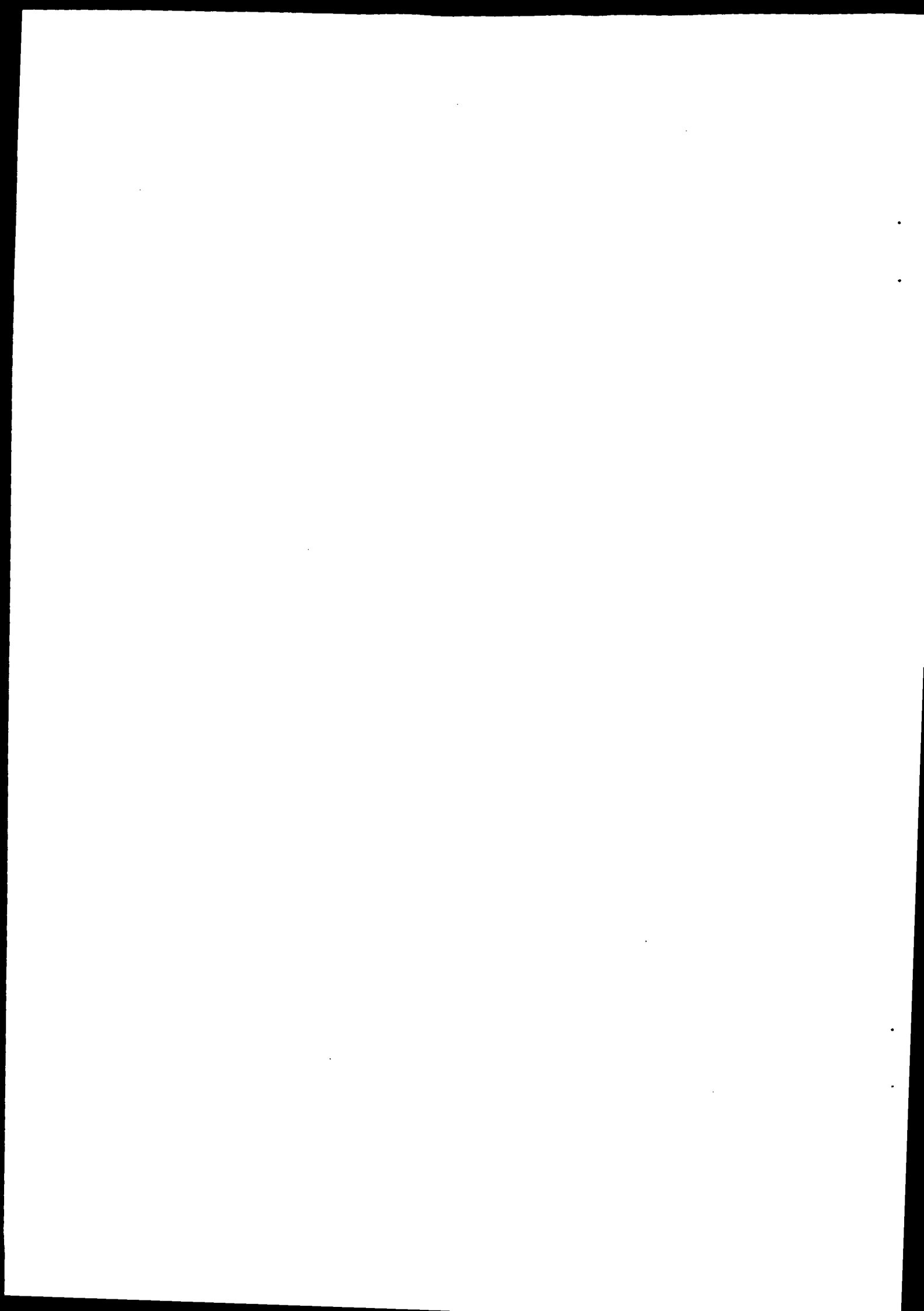
xxiv. in Article 51, paragraph 4, after the words “shall apply Community and EU rules”, add the words “insofar as these establish a more intensive co-operation than that established by this Convention, subject to the same safeguards”;

xxv. in Article 52 (“Declarations and reservations”), delete paragraph 2;

xxvi. in Article 52, add a new sentence at the end of paragraph 3 as follows: “Any reservations made under the preceding paragraphs must be limited to a maximum duration of five years”;

xxvii. in Appendix I, replace the word “terrorism” with the words “acts of terrorism”;

xxviii. in Appendix I, after the word “fraud”, add the words”, including tax and benefit frauds”.





Provisional edition

Draft Convention on the prevention of terrorism

Opinion No 255 (2005)¹

1. The Parliamentary Assembly, having on several occasions called for further Council of Europe action against terrorism, cannot but warmly welcome and strongly encourage work towards the draft Convention on the prevention of terrorism, which received its first reading in the Committee of Experts on Terrorism (CODEXTER) on 13-15 December 2004. Whilst recognising that the current draft represents "work in progress", with further meetings of the CODEXTER planned for February and March 2005, the Assembly is constrained to give its opinion on the text before it. Nevertheless, the Assembly can provisionally conclude that this draft suggests an important and valuable addition to national and international efforts to combat international terrorism, whilst repeating its calls for further work on a comprehensive convention.

2. In its Resolution 1400 (2004), the Assembly stated that "The protection of human rights plays a key role in the fight against terrorism. These rights are central to our credibility. Any violation of these rights weakens the international coalition in the fight against terrorism and drives new supporters into the hands of the terrorists." This statement is fully applicable to the draft Convention on the prevention of terrorism. If the Assembly is to give its unqualified support to the eventual Convention, therefore, it is essential that the draft Convention reflect fully the minimum standards contained in the Committee of Ministers' Guidelines on human rights and the fight against terrorism, as adopted on 11 July 2002, along with all other relevant obligations by which member states are bound under international law. The Assembly also invites the Committee of Ministers to make future drafts of the Convention available on the Council of Europe website, in such a way as to allow civil society an effective opportunity of submitting comments.

3. The Assembly therefore makes the following recommendations to the Committee of Ministers:

- i. in the title, before the word "Convention", add the words "Council of Europe";
- ii. in the Preamble, alinea 5 ("Recalling the need..."), replace the current wording with the following: "Reaffirming that it is absolutely necessary for all measures taken in the fight against terrorism to respect human rights, the rule of law and, where applicable, international humanitarian law";
- iii. in the Preamble, after paragraph 4, add a new alinea as follows: "Reaffirming that acts of terrorism, by whoever perpetrated, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and recalling the obligation of all States Parties to prevent such acts and, if not prevented, to prosecute and ensure the punishment of offenders by penalties which take into account their grave nature";
- iv. in Article 1 ("Terminology"), paragraph 1, delete the words "within the scope of and as defined in one of the treaties" and, at the end, add the words " , when the purpose of the act which

¹ *Assembly debate* on 27 January 2005 (7th Sitting) (see Doc.10423, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany et Doc. 10439, opinion of the Political Affairs Committee, rapporteur: Mr Mercan). *Text adopted by the Assembly on 27 January 2005 (7th Sitting).*

constitutes the principal offence, by its nature or context, is to intimidate a population or to compel a government or an international organisation to do or to abstain from doing any act”;

- v. in Article 2 (“Purpose”), at the end, add the following words: “and full respect for human rights and the rule of law”;
- vi. in Article 3 (“National prevention policies”), paragraph 1, at the end, add the following words: “and international humanitarian law”;
- vii. in Article 4 (“Public provocation to commit an act of terrorism”), paragraph 1, replace the provision on indirect incitement (from the words “including where the message” until the end) with a formulation ensuring greater certainty and guaranteeing full and effective respect for human rights, in particular the freedom of expression;
- viii. if amendment vii. above is not accepted, in Article 4 (“Public provocation to commit an act of terrorism”), paragraph 1, delete the words from “including where the message” to the end;
- ix. in Article 4, paragraph 2, after the words “provided that the provocation”, add the words “incites violence and” and after the words “imminent danger” delete the words “or likelihood”;
- x. in the eventual Explanatory Report’s comments on Articles 4-7, stress that all measures taken in relation to the offences must comply with the conditions and safeguards contained in Article 9 and in particular to respect fully Article 10 or 11 of the ECHR, as appropriate;
- xi. delete Article 6*bis* (“Non-reporting”);
- xii. if amendment x. above is not adopted, in Article 6*bis*, delete paragraphs 1 and 2;
- xiii. in Article 7 (“Ancillary offences”), paragraph 1, add the word “knowingly” at the beginning of sub-paragraphs a. and b.;
- xiv. in Article 7*bis* (“Non-application of the Convention”), replace the words “This Convention shall not apply where any of the offences established in accordance with Articles 4-7” with the words “Without prejudice to the obligation to establish the offences listed in Articles 4-7 in compliance with the conditions and safeguards contained in Article 9, Articles 15 and 16 shall not apply where any of such offences”;
- xv. in Article 8 (“Sanctions and measures”), paragraph 1, at the end, add the words “which shall in no circumstances include the death penalty”;
- xvi. in Article 8, paragraph 2, at the end, add the sentence “Such convictions shall not be taken into account where it emerges that they result from a flagrant denial of justice”;
- xvii. delete Article 8*bis* (“Confiscation”);
- xviii. in Article 9 (“Conditions and safeguards”), paragraph 1, replace the words “the establishment, implementation and application of the criminalisation under Articles 4-7 of” with the words “all measures taken further to”;
- xix. in Article 9, paragraph 1, after the words “freedom of expression” add the words “notably the legitimate exercise of freedom of political speech”;
- xx. in Article 9, paragraph 1, delete the word “and” before the words “freedom of religion” and after those words, add the words “the right to liberty and security, the right to a fair trial and the prohibition on torture and inhuman or degrading treatment or punishment,” (followed by a comma);
- xxi. in Article 9, paragraph 2, replace the words “should furthermore be subject to” with the words “shall comply with” and replace the second instance of the word “should” with the word “shall”;
- xxii. delete Article 11 (“Prevention of justification”);
- xxiii. delete Article 11*bis* (“Non-abuse of refugee status”);

xxiv. in the eventual Explanatory Report's comments on Article 13, stress that all measures taken further to this article must comply with the conditions and safeguards contained in Article 9, in particular the provisions of Article 5 ECHR;

xxv. delete Article 18 ("Exclusion of the political exception clause");

xxvi. replace Article 18*bis* ("Discrimination clause") with the following:

"Article 18*bis* - Grounds for refusing extradition or mutual legal assistance

1. States Party shall refuse to comply with requests for extradition or mutual legal assistance made in relation to the offences set forth in Articles 4-7 where there are substantial grounds for believing that the request:

a. has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons; or

b. is the result of a flagrant denial of justice.

2. States Party shall refuse to comply with requests for extradition made in relation to the offences set forth in Articles 4-7 where there are substantial grounds for believing that complying with the request would result in the person concerned facing a real risk of:

a. being exposed to the death penalty, unless that risk has been removed by sufficient assurances given by the requesting State;

b. being sentenced to life imprisonment without the possibility of parole, unless that risk has been removed by sufficient assurances given by the requesting State;

c. being subjected to torture or to inhuman or degrading treatment or punishment;

d. suffering a flagrant denial of justice";

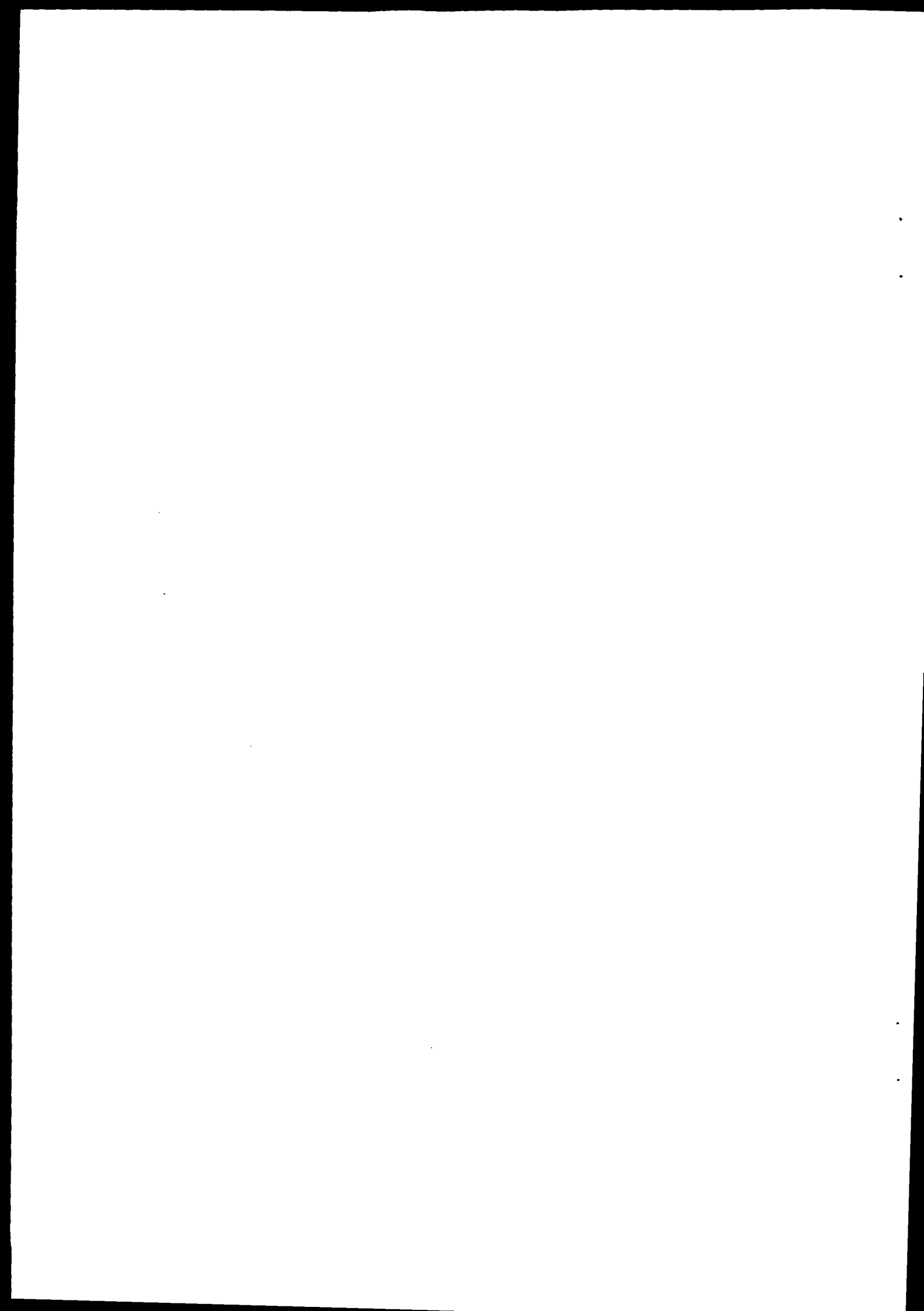
xvii. in Article 19 ("Spontaneous information"), after paragraph 3, add a new sub-paragraph as follows:

"Any information for which there are substantial grounds for believing that it has been obtained as a result of torture or inhuman or degrading treatment or punishment shall not be used as evidence in any proceedings";

xviii. revise the Annex so as to include an exhaustive list of the treaty articles containing the intended "principal offences";

xxix. in Article 31 ("Follow-up"), paragraph 1, sub-paragraph a., at the end add the following: "and shall make a specific assessment of the impact of the convention on human rights in the States Parties."

4. The Assembly notes with satisfaction that after its repeated calls to strengthen the legal basis of combating terrorism practical work has been launched. It notes however that the draft is far from being a comprehensive anti-terrorism convention, elaboration of which has been demanded by the Assembly on several occasions. Therefore, it expects that the Committee of Ministers will return to the issue of a comprehensive convention in the nearest future. The Assembly would particularly like to note the lack of a legal definition of terrorism. It therefore calls upon the Committee of Ministers and upon Member States to consider whether it is not desirable for such a definition to be elaborated within the Council of Europe, and to exercise all possible support to relevant activities of the United Nations.





Provisional edition

The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference

Recommendation 1690 (2005)¹

1. The Parliamentary Assembly refers to its Resolution 1416 (2005) on the conflict dealt with by the OSCE Minsk Conference and recommends that the Committee of Ministers:

i. urge the parties concerned to comply with the United Nations Security Council Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), in particular by refraining from any armed hostilities and by withdrawing military forces from all occupied territories of Azerbaijan;

ii. monitor the compliance by Armenia and Azerbaijan with the United Nations Security Council Resolutions and the decisions of the OSCE Council of Ministers on this conflict and to report to the Assembly on the outcomes of this monitoring;

iii. report to the Assembly on the efforts undertaken by member states for the peaceful settlement of the conflict in accordance with the Resolutions of the United Nations Security Council including whether member states refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory in violation of Resolution 853 (1993) of the United Nations Security Council;

iv. recalling its Recommendation 1251 (1994) on the conflict in Nagorno-Karabakh, place experts at the disposal of Armenia and Azerbaijan who could help draw up a political status for Nagorno-Karabakh, if they so wish;

v. allocate resources for an action plan of specific confidence-building measures for Armenia and Azerbaijan;

vi. allocate resources for specific training programmes for teachers and journalists from both countries aimed at better mutual understanding, tolerance and reconciliation;

vii. allocate resources for specific action by the European Commission against Racism and Intolerance concerning both countries, in particular with regard to educational institutions and the public media;

viii. instruct its competent steering committee to analyse how far the European Convention for the Peaceful Settlement of Disputes reflects the current requirements of conflict settlement among member states of the Council of Europe and where it should be revised in order to provide an adequate instrument for the peaceful settlement of disputes between the member states of the Council of Europe;

ix. take Resolution 1416 (2005) into account when deciding on action concerning both countries;

x. forward Resolution 1416 (2005) and this Recommendation to the governments of member states with a view to supporting them nationally, bilaterally and internationally.

¹ *Assembly debate* on 25 January 2005 (2nd Sitting) (see Doc.10364, report of the Political Affairs Committee, rapporteur: Mr Atkinson). *Text adopted by the Assembly* on 25 January 2005 (2nd Sitting).



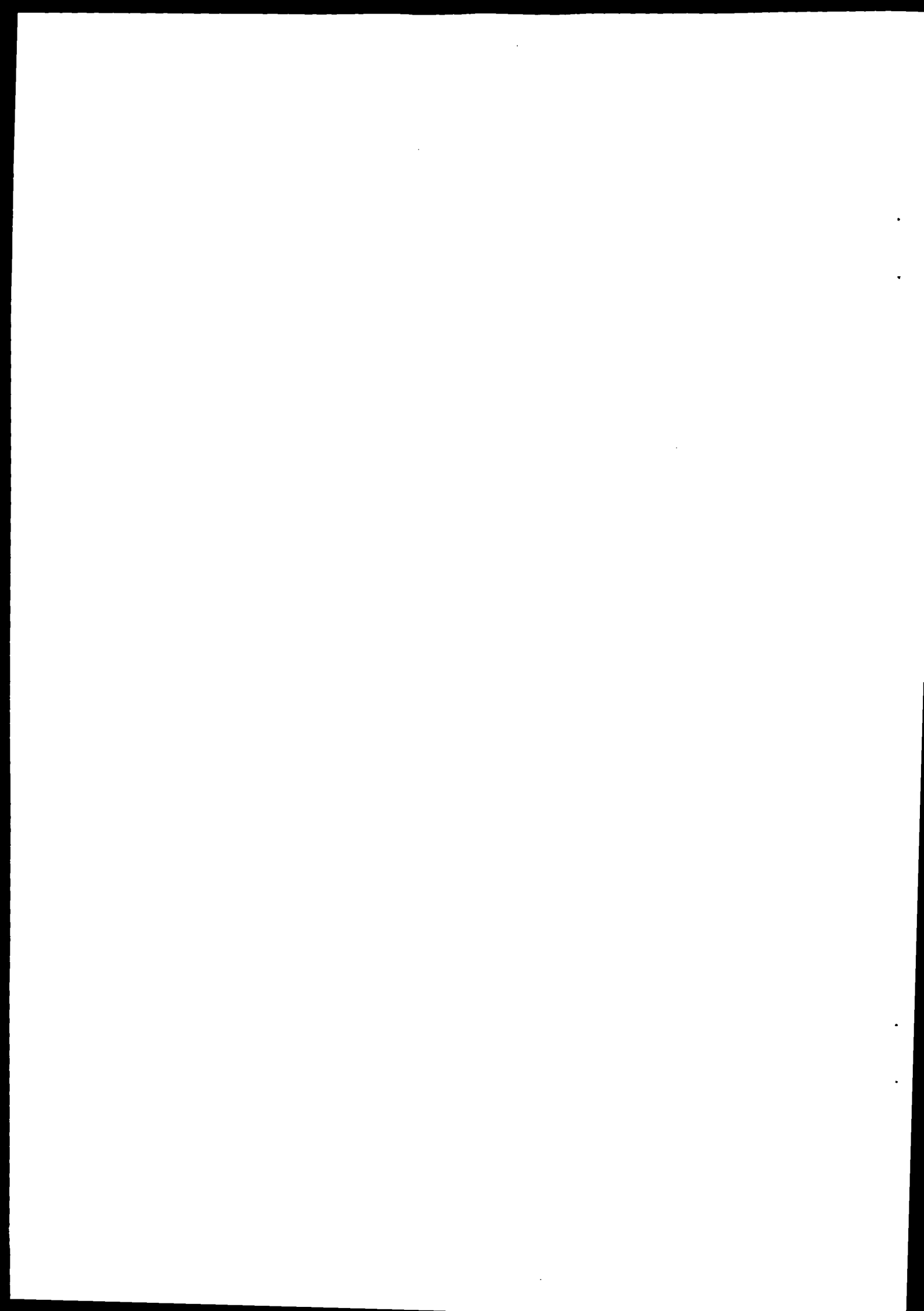
Provisional edition

Protection of human rights in Kosovo

Recommendation 1691 (2005)¹

1. The Parliamentary Assembly refers to its Resolution 1417 (2005) on the protection of human rights in Kosovo.
2. The Assembly accordingly recommends that the Committee of Ministers:
 - i. make speedily the necessary arrangements for implementation of the mechanism of the Convention for the prevention of torture by KFOR/NATO in Kosovo;
 - ii. commence work, in co-operation with UNMIK and KFOR/ NATO, towards establishing a Human Rights Court for Kosovo, in accordance with the relevant paragraph of the above-mentioned resolution and associate Serbia and Montenegro with this work;
 - iii. adopt, following consultation with the Assembly, a resolution inspired *mutatis mutandis* by Committee of Ministers' Resolution (93) 6 on control of respect for human rights in European States not yet members of the Council of Europe, containing rules on the nomination of judges for the Human Rights Court for Kosovo and their appointment by the President of the European Court of Human Rights;
 - iv. adopt, following consultation with the Assembly, a resolution authorising the President of the European Court of Human Rights to:
 - a. nominate independent international human rights experts to the UNMIK Advisory Panel/ Human Rights Commission, once created;
 - b. nominate independent international human rights experts to the KFOR Claims Appeal Commission/Advisory Board, once reformed;
 - c. nominate international human rights experts, of high moral character and preferably though not necessarily with judicial experience, to be international judges in the Special Chamber of the Supreme Court on Constitutional Framework Matters, once established;
 - v. undertake a study on possible interim extension of the jurisdiction of the European Court of Human Rights to all the inhabitants of Kosovo.

¹ *Assembly debate* on 25 January 2005 (3rd Sitting) (see Doc. 10393, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Lloyd). *Text adopted by the Assembly* on 25 January 2005 (3rd Sitting).





Provisional edition

The circumstances surrounding the arrest and prosecution of leading Yukos executives

Recommendation 1692 (2005)¹

1. The Parliamentary Assembly, referring to its Resolution 1418 (2005), recommends that the Committee of Ministers in general terms:

i. continue offering to the Russian Federation the Council of Europe's co-operation in preparing and implementing reforms of the legal and judicial system and of law enforcement agencies, aimed in particular at further strengthening the effective independence and transparency of the courts and of their proceedings, particularly as regards the distribution of cases among judges of a given court (principle of the judge determined by law);

ii. evaluate the extent to which progress has been achieved under past and current assistance and co-operation programmes carried out in these fields of judicial reform, and to inform the Assembly of the results of this evaluation and of any adaptations that may turn out to be necessary in order to achieve better results;

iii. urge the Russian Federation to ensure that all pre-trial detention centres, including Lefortovo isolation centre in Moscow, be submitted to supervision by the Ministry of Justice, in line with earlier commitments and be open to visits by representatives of the Parliamentary Assembly as requested.

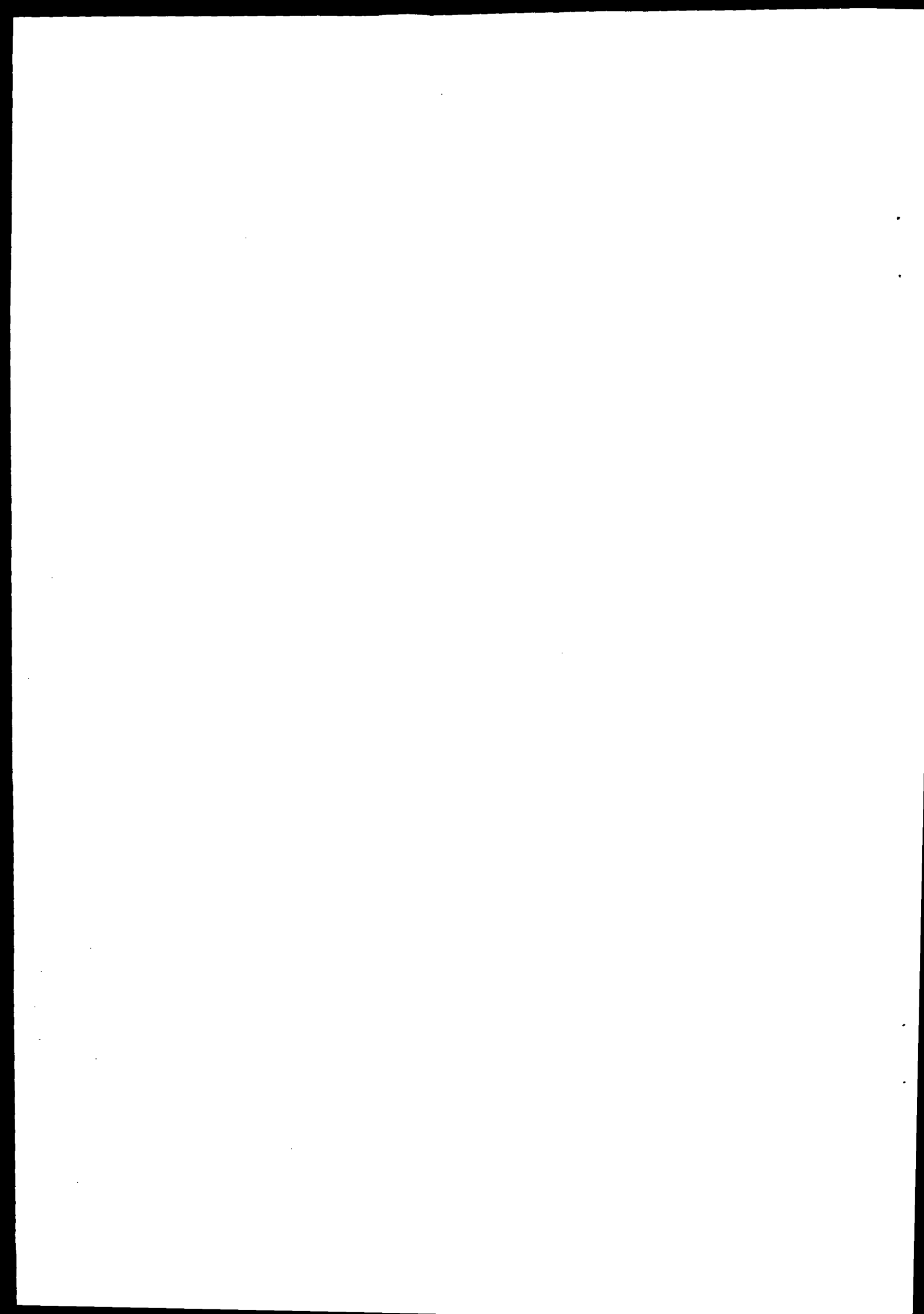
2. Concerning more specifically the cases of the leading Yukos executives, the Parliamentary Assembly recommends that the Committee of Ministers:

i. remind the Russian authorities of the importance it attaches to the principle of open court hearings and ask them to ensure that exceptions to this principle in the Pichugin case are limited to the strict minimum, in accordance with Article 6 § 1 of the European Convention on Human Rights;

ii. remind the Russian authorities of the importance it attaches to the principle that detention on remand shall be an exceptional measure and ensure that this principle is also applied in the case of Mr Khodorkovsky;

iii. urge the Russian authorities to immediately allow an independent medical assessment of Mr Lebedev's state of health.

¹ *Assembly debate* on 25 January 2005 (3rd Sitting) (see Doc. 10368, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Leutheusser-Schnarrenberger). *Text adopted by the Assembly* on 25 January 2005 (3rd Sitting).





Provisional edition

The Third Summit

Recommendation 1693 (2005)¹

1. The Parliamentary Assembly welcomes the Committee of Ministers' decision to hold the Third Council of Europe Summit of Heads of State and Government in Warsaw on 16-17 May 2005, at the invitation of the Polish Government. It recalls that the two previous Summits have been a main thrust in the process of integration of the European continent and a number of crucial decisions have been taken on such occasions.

2. The decision to convene the Summit is justified. The objectives set by the First Summit in Vienna in 1993, namely "bringing together on an equal footing and in permanent structures all European countries meeting requirements of democracy, the rule of law, and respect for human rights" has effectively been accomplished.

3. The mandate given by the Second Summit held in Strasbourg in 1997, "strengthening democratic stability in the member states and setting up mechanisms for monitoring procedures of compliance with membership's obligations and commitments undertaken upon accession", has also been implemented and relevant mechanisms are operational.

4. The Third Summit taking place in a changing Europe should address the challenges which Europe will be facing and underscore the Council of Europe's relevance for the continent. It should provide the Organisation with a clear political mandate for the coming years and position it in the European institutional landscape. It should also commit sufficient resources to carry out this mandate.

5. The date of the Third Summit symbolically coinciding with the 60th anniversary of the end of the Second World War and the 15th anniversary of the beginning of democratic transformation in Central and Eastern Europe, thus provides a timely opportunity to stress the unity of Europe based on shared values without dividing lines.

6. These common values concern, first and foremost, human rights, democracy and the rule of law. Promoting and ensuring respect of these values in Europe is the core statutory mission of the Council of Europe which remains as relevant today as it was in 1949. The Summit should reaffirm the commitment of all member states to these common values and recognise that they are the areas of excellence of the Organisation, as reflected in the unique role it plays on the Continent in the fields of standard-setting, monitoring, awareness-raising and assistance to member states. In view of continuing challenges to these values – of which terrorism is a prominent example – this role needs to be strengthened further and more resources need to be made available for it. The core mission of the Council of Europe cannot be dissociated from

¹ *Assembly debate on 26 January 2005 (5th Sitting)* (see Doc. 10381, report of the Political Affairs Committee, rapporteur: Mr Kosachev, Doc. 10391, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bruce, Doc. 10417, opinion of the Committee on Economic Affairs and Development, rapporteur: Mr Kirilov, Doc. 10395, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Azevedo, Doc. 10435, opinion of the Committee on Migration, Refugees and Population, rapporteur: Mr Wilkinson, Doc. 10421, opinion of the Committee on Culture, Science and Education, rapporteur: Mr Legendre and Doc. 10404, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Cliveti). *Text adopted by the Assembly on 26 January 2005 (5th Sitting).*

important areas such as social cohesion and culture in the broad sense (including education, heritage, arts, science, media, youth and sport) as well as migration and demographic change and environmental protection, based on respect for the principle of sustained development.

7. It is particularly important to avoid any form of division between "old" and "new" member states of the Council of Europe. The same standards should be applied to and implemented by all member states.

8. A codex of key Council of Europe conventions should be elaborated. It should contain concrete deadlines for signature or ratification by those countries which have not done so before the Summit. The various monitoring procedures should be reviewed in order to apply them in a comparable and transparent manner to all member states and their results should be brought together in a comprehensive manner.

9. The Council of Europe's assistance programmes should be based on the conclusions of these monitoring procedures and integrated in its intergovernmental work programme; they should be transparent and available to all member states.

10. The promotion of pluralist democracy, which includes involving the civil society and monitoring the state of democracy in Council of Europe member states, should remain one of the main objectives of the Organisation's action. An independent body should be set up whose task would consist of evaluating the state of democracy in the member states, publishing reports on a regular basis and proposing measures to be taken.

11. The geographical enlargement, including the long-term perspective, and the increase in the range of activities and competences of the European Union, carry important consequences for the European institutional architecture. The unique position of the Council of Europe as the only strictly pan-European organisation provides an exceptional opportunity for strengthening political dialogue between the European Union member and non-member states on the basis of common values partnership and mutual interest.

12. The European Union should consider the Council of Europe as a privileged framework to develop and implement its neighbourhood policy with its partners. In addition, to promote the creation of a single European legal space, the European Union should be invited to accede to all Council of Europe Conventions open to it. The Council of Europe should also establish appropriate instruments to enable the European Union to accede to other conventions, such as the European Cultural Convention.

13. The Assembly welcomes the recent discussions between the Council of Europe and the OSCE aimed at enhanced co-operation and co-ordination between both Organisations but stresses the importance of closely involving the Parliamentary Assemblies of both Organisations. The Assembly reiterates its support for the adoption of a Memorandum of Understanding based on these principles.

14. The action of the Council of Europe aimed at strengthening democracy and human rights as well as linguistic and cultural diversity and social cohesion corresponds to the innovative promotion of human security, an essential concern of the United Nations. Moreover, many of its activities such as those on national minorities and promoting intercultural and interreligious dialogue are essential to conflict prevention. Consequently, the Council of Europe should declare itself willing to act as a regional organisation within the meaning of Chapter VIII of the United Nations Charter and its specialist organisations.

15. Moreover, the Organisation's action should be oriented in a way to develop partnerships with the countries of Europe's immediate neighbourhood with a view to pursuing common goals and fruitful co-operation on all matters within the competence of the Council of Europe.

16. The Assembly is convinced that the Third Summit will give fresh political impetus to the Organisation. The Assembly presents this contribution for the general reflection on the content and possible results of the Summit and expects that its recommendations will be reflected in the final documents of the Summit.

17. The Assembly calls on national parliaments of Council of Europe member states to organise debates on the Third Summit in order to give political impetus to the run-up to the Summit and to ensure that the Summit generates the necessary political impact. In addition, the Assembly calls on the Committee of Ministers, national governments and parliamentarians to ensure that civil society is informed and consulted about the upcoming Third Summit.

18. The Assembly recommends that the Committee of Ministers include the following elements for consideration by Heads of State and Government:

i. in the draft Declaration:

a. affirm the unity of Europe as embodied by the Council of Europe based on shared values to which human rights, democracy and rule of law are central and which also find expression in the areas of social cohesion and cultural co-operation;

b. express the desire to preserve and reinforce the unique position of the Council of Europe in the European institutional architecture on account of its excellence and unparalleled mechanisms in the area of the promotion and protection of human rights, first and foremost the European Court of Human Rights;

c. strengthen the Council of Europe's convention system by the establishment of a codex of key conventions and by setting deadlines for their ratification by all Council of Europe member states which have not yet done so;

d. emphasise the importance of the promotion and observance of basic democratic principles and guidelines which may enable better functioning and development of democratic institutions and civil society burdened by new difficult tasks and challenges. Their point of reference should be first of all the citizen. These principles are especially centred on:

A. freedom of association,

B. the decentralisation of power and strengthening of regional and local government,

C. the new orientation of political parties which should in their electoral efforts base themselves on co-operation and support of civil society,

D. equal participation of women and men in decision-making,

E. freedom of expression and independent and responsible media,

F. a coherent system of civic education,

G. an institutionalised system of checks and balances of powers, including through independent courts;

e. declare the resolve of the Council of Europe member states to strengthen human rights protection and the fight against all forms of racism, xenophobia and discrimination; in this context, welcome the entry into force, on 1 April 2005, of Protocol No. 12 to the European Convention on Human Rights containing a general prohibition of discrimination and call on all member states who have not yet done so to sign and ratify this Protocol;

f. include a strong commitment to the effect that the Committee of Ministers must fully assume its political responsibility for contributing proactively to the solution of human rights problems in member states, alongside the Parliamentary Assembly's efforts in this field, and for ensuring political support and follow-up to the work of the independent human rights mechanisms;

g. to proclaim the strategic aim to create a single pan-European area of free movement of nationals of Council of Europe member states as an essential element of a Europe without dividing lines;

- h. make the commitment to continue to fight against all forms of violence, including domestic violence and trafficking in human beings;
 - i. emphasise the need to promote sustainable development through integrated policies for the environment and regional development;
 - j. confirm the importance of sustainable development for securing a better quality of life for European citizens. The Council of Europe should continue its activities aimed at preserving the environment and biodiversity through the implementation of integrated policies at pan-European level;
 - k. apply the same standards to all member states, in particular with regard to the monitoring mechanisms and procedures and ensure that they are implemented by all;
 - l. include a solemn commitment by member states to resolve existing conflicts between them and within their borders by peaceful means, in accordance with Council of Europe values and the United Nations Charter;
 - m. reaffirm that education for democratic citizenship based on the rights and responsibilities of citizens and the values of the Council of Europe will remain a priority for the Organisation's future activities;
 - n. commemorate formally the sufferings of many Europeans resulting from forced population movements and ethnic cleansing during the last century with a decision in principle to create a centre of European remembrance for the victims of such evils;
- ii. in the Plan of Action, the Summit should:
- a. confirm the Council of Europe's unique mission to achieve greater unity between European states through the promotion and protection of common values, first and foremost those of human rights, democracy and the rule of law, in a collective framework where all the democratic countries of Europe are united, co-operate on an equal footing and are equally accountable; to this end, commit the member states to:
 - A. strengthening the role and capabilities of the Council of Europe in general in its core areas of excellence, notably the promotion and protection of human rights, whilst recognising that the further realisation of a common democratic and legal space where these shared values flourish also depends on the targeted contribution of Council of Europe activities in the areas of social cohesion, cultural co-operation and the promotion of cultural diversity and intercultural and interreligious dialogue, as well as equality between women and men, in particular via gender mainstreaming;
 - B. more specifically, through budgetary and other measures, firstly, strengthening further, and enhancing the synergies between, the Council of Europe's unique mechanisms for the protection and monitoring of human rights, including social rights and minority rights, as well as the fight against racism and intolerance, with the European Convention on Human Rights (ECHR) and the European Court of Human Rights as the Organisation's paramount achievement; secondly, initiating a Europe-wide programme to promote professional training so as to improve further the implementation of European human rights standards at the national level and thereby, in particular, relieve the excessive workload of the Court; and thirdly implementing fully and without delay the broad package of ECHR reform measures adopted in May 2004 and ratifying Protocol No. 14 as a matter of urgency;
 - C. using more fully the Organisation's potential as a framework for developing collective responses to new challenges, including action against terrorism including its financing and responses to challenges resulting from the growing cultural diversity of European societies which require a strong affirmation of the values of the Council of Europe and co-operation to promote their concrete translation into national policies. On the first point, the Assembly expects the Summit to charge the Council of Europe with preparing a comprehensive anti-

terrorism convention and other measures designed to counter the terrorist threat. To this end, the Summit could adopt a special statement, supplementing the Political Declaration and the Plan of Action;

b. clearly define the Council of Europe's position in the European architecture and the procedures governing its co-operation with the European Union, the OSCE, NATO, the United Nations and its subsidiary bodies and sub-regional mechanisms, including by a commitment to strive to ensure that the action of partner organisations complements and does not duplicate that which forms part of the core mission of the Council of Europe;

A. the Summit should take a decision in principle to hold a European Summit in 2006-2007 involving all the European and Euro-Atlantic organisations. The aim of such a Summit could be to combine efforts to bring the European peoples closer together, to create a single area in terms of social welfare and economic prosperity, to improve general security across Europe and to make fuller and more consistent use of the opportunities afforded by a united Europe in resolving the common problems facing humanity;

B. in order to prepare the European Summit, a Committee of wise persons could be established with a wide mandate to provide the Council of Europe and partner organisations with advice concerning their own future development and a type of structured relationship between them necessary to acquire synergy and avoid duplication as well as overlapping of their activities while making optimum use of the complimentary nature of their work;

C. recommend the Council of Europe and partner organisations to fully exploit and reinforce the possibilities for communication and co-ordination with all institutions involved in the European construction process;

D. strengthen the Council of Europe's role as the forum in which all European nations have an opportunity to co-operate on an equal footing. It may assign the Council of Europe with new tasks of serving as the multilateral neighbourhood policy elaboration and implementation body and as a tool for fostering institutional ties between the European Union member and non-member countries and their integration in the fields of competence of the Council of Europe;

E. invite the European Union to accede to the Statute of the Council of Europe and to open an office in Strasbourg ensuring closer contact with the Council of Europe and take the necessary steps to allow for this;

F. propose the Parliamentary Assembly's inclusion, together with the European Parliament, in the Quadripartite meetings between the European Union and the Council of Europe;

G. reinforce and rationalise co-operation and co-ordination between the OSCE and the Council of Europe, in the light of their specific tasks and respective advantages, so that the international community may convey consistent messages, drawing up for these purposes a general outline agreement;

H. update the 1952 co-operation agreement between the Council of Europe and Unesco to make the Council of Europe the regional organisation for cultural co-operation at both governmental and parliamentary levels;

I. support co-operation between European countries and other regions of the world, giving particular priority to the southern Mediterranean and Central Asia;

c. emphasise the standard-setting activities of the Council of Europe and its work on normative instruments which, if ratified, would be equally binding on the European Union and non-member states of the European Union and – in light of the experience of the drafting process of the Council of Europe Convention on action against trafficking in human beings – re-examine the current and future modalities of negotiations on draft legal instruments, so that the two organisations' mutual goal of a common legal area fully respecting and promoting the human rights of all can be reached;

- d. create a European Migration Agency with the aim of defending human rights and dignity whilst monitoring all aspects of migration and the situation of migrants including a dialogue with non-member countries of the Council of Europe (Assembly Recommendation 1655 (2004))
- e. define for the Council of Europe new priority areas of standard-setting, reflecting the changing needs, new issues facing the continent of Europe and indispensable strengthening of democratic institutions. The standard-setting work should particularly apply to:
 - A. improvement of application by model guidelines of such democratic instruments as petitions, popular initiatives and referendums in particular at local level as well as rules of procedure for parliamentary bodies and methods of parliamentary consultations of the public;
 - B. protection of good practice in activities of political parties by the elaboration of a Code of Good Practice for them and guidelines on how political parties could be financed;
 - C. questions of internal security, co-operation between police forces and judicial bodies, migration control and visa-free travel;
 - D. ensuring economic freedoms common to the Greater Europe – freedom of movement of labour, goods, services and capital – on a Europe-wide scale and promoting policies to foster economic growth to improve Europe's competitiveness in a globalised economy;
 - E. studying good practices and drafting a road map aimed at achieving the goal to create a single European area of free movement of nationals of Council of Europe member states;
 - F. protection of private property and reconciliation of the interests of the welfare state with those of the business community;
 - G. protection of the right to women's effective participation in elections by the elaboration of a charter for electoral equality, as recommended in Recommendation 1676 (2004) on women's participation in elections
- f. create an intergovernmental committee following the pattern of the Venice Commission or ECRI which would be asked to present reports on a regular basis and to propose measures to be taken with a view to promoting desirable reforms of democracy as well as monitoring the state of democracy in Council of Europe member states.
- g. decide 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, as recommended in Assembly Recommendation 1681 (2004) on a campaign to combat domestic violence against women in Europe
- h. confirm the importance of sustainable development for securing a better quality of life for European citizens. The Council of Europe should continue its activities aimed at preserving the environment and biodiversity through the implementation of integrated policies at pan-European level;
- i. continue the work arising from the Second Council of Europe Summit's "education for democratic citizenship" initiative and that planned under the umbrella of the 2005 European Year of Citizenship through Education. Education should make a significant contribution to European integration and democratic development. A European framework convention should be drawn up on education for democratic citizenship and human rights. This should clarify the principles of democratic citizenship, and its lifelong learning aspects and practice, and stress the need for a more organic relationship of the schools system with NGOs and local government;

j. declare the willingness to co-operate with and make its expertise available to other international organisations which wish to create similar structures in other parts of the world;

k. consider whether the time is now ripe for the Council of Europe, as a pan-European forum, to play a decisive role in the domain of economic co-operation, including in the intergovernmental field, in joint projects with the United Nations and its subsidiary bodies and in conformity with the Council of Europe's statutory mandate to facilitate the "economic and social progress" of its members and the calls made in Assembly Resolutions 995 (1993), 1036 (1994) and 1052 (1995);

l. strengthen the country by country and thematic monitoring procedures used by the Council of Europe to ensure that states honour the commitments entered into and the obligations arising from membership of the Organisation and in particular put the emphasis in monitoring on the exchange of information on positive experiences and making maximum use thereof;

m. whilst welcoming the significant progress in complying with Council of Europe standards made since the Second Summit and at the same time recognising that there still remains a need, notably but not exclusively for the benefit of newer member states, for country-specific assistance programmes and activities, take the decision to evaluate more systematically the effective use made by beneficiary countries of the assistance provided and to ensure, more generally, that assistance is provided in the light of objective needs, notably those identified in the framework of the monitoring mechanisms of the Council of Europe, including the human rights mechanisms; in this context, the importance of multilateral, intergovernmental co-operation as a tool for promoting Europe-wide implementation of existing and developing standards should also be underlined;

n. recognise the particular significance for the European Court and the entire pan-European system of human rights protection of the European Union's accession to the European Convention on Human Rights which would ensure a unified policy of human rights across Europe;

o. welcome, therefore, the recent adoption of, on the one hand, the Constitutional Treaty by the European Union and, on the other, Protocol No. 14 to the ECHR by the Council of Europe as the strongest expression to date of the political commitment on both sides towards EU accession to the ECHR and, accordingly, call on the EU to prepare, together with the Council of Europe, the necessary legal measures with the aim of ensuring that the EU's accession can take place immediately after entry into force of the Constitutional Treaty, whilst ensuring that the essential features of the ECHR control system will also apply to the EU once it is a Contracting Party;

p. reorganise the institutional system of the Council of Europe and to strengthen all its main bodies, and in particular:

A. reinforce the Parliamentary Assembly and provide it with the right to initiate legislation and in particular to submit to the Committee of Ministers for consideration or joint discussion draft normative instruments prepared by the Assembly or at its request. The Assembly should be much more involved in the standard-setting process. It should also be provided with sufficient resources to enable it to actively engage in dialogue with national parliaments;

B. the work of the Council of Europe's Committee of Ministers needs to be much more open and transparent. Its agenda should be drawn up in such a way as to make it interesting and appealing to the media. The Committee of Ministers' relations with the media should be overhauled and the meetings of specialised ministers should be far more frequent and the discussions more intense. Ideally, concrete decisions should be submitted to them for consideration and their work should be given much greater substance. The practice of holding joint meetings between the Council of Europe's Committee of Ministers and specialised ministers

from member states should be introduced. Such an arrangement would help generate synergies, encourage co-operation and stimulate the integration process on a Europe-wide scale;

C. better use the tremendous potential offered by the Congress of Local and Regional Authorities of the Council of Europe. The Summit could voice its support for the Congress as an effective champion of local self-government and a forum for discussing topical issues relating to local and regional development. The Congress should be entrusted with the task of implementing confidence-building measures and promoting inter-ethnic peace;

q. reconsider an initiative put forward a few years ago calling for the setting-up within the Council of Europe of a court of general jurisdiction. For the Council of Europe in its current form, such a proposal is of little relevance. With the sharp increase in the Council of Europe's standard-setting activities, the shift in focus to pan-European lawmaking and stocktaking of Council of Europe conventions and resolutions, however, the need for such a body is beginning to make itself felt;

r. promote a model for European society, and in particular:

A. draw up a European public service charter with standards guaranteeing citizens equal and free access to basic public services: education, health, transport, telecommunications;

B. draw up a European Convention on the civil service establishing standards relating to ethics and job security;

C. set up, in liaison with the European Union, a special programme to train and retrain university teachers to teach the standards of the Council of Europe, starting with a pilot project in the Russian Federation;

D. strengthen the Organisation's analytical and predictive role in the field of legal norms and social trends, in association with qualified personalities - economists, philosophers and sociologists renowned for their work on the new patterns of social life likely to emerge as a result of globalisation;

E. stress the importance of the promoting intercultural and inter religious dialogue and a constant struggle against xenophobia in Europe as well as additional efforts to integrate migrant workers in European society;

F. continue to assist member states in formulating and implementing a successful social cohesion strategy for the 21st century - with a specific focus on fight against poverty and precarious life-situations and ill-health;

G. support the proposal by the intergovernmental sector of the Council to set up a "think tank" and expresses its wish to be involved in the activities of that group. This body should put forward a new vision for a socially cohesive Europe, and devise responses to such contemporary challenges as globalisation or population ageing - without losing the essential achievements of the European social economic model;

s. provide sufficient budgetary means for the proper implementation of the decisions and objectives agreed upon during the Summit;

t. enhance the transparency of the activities of the Council of Europe for the 800 million people living in its member states, and enhance the inclusion of national institutions for the protection of human rights and non-governmental organisations in the work of the Council of Europe.



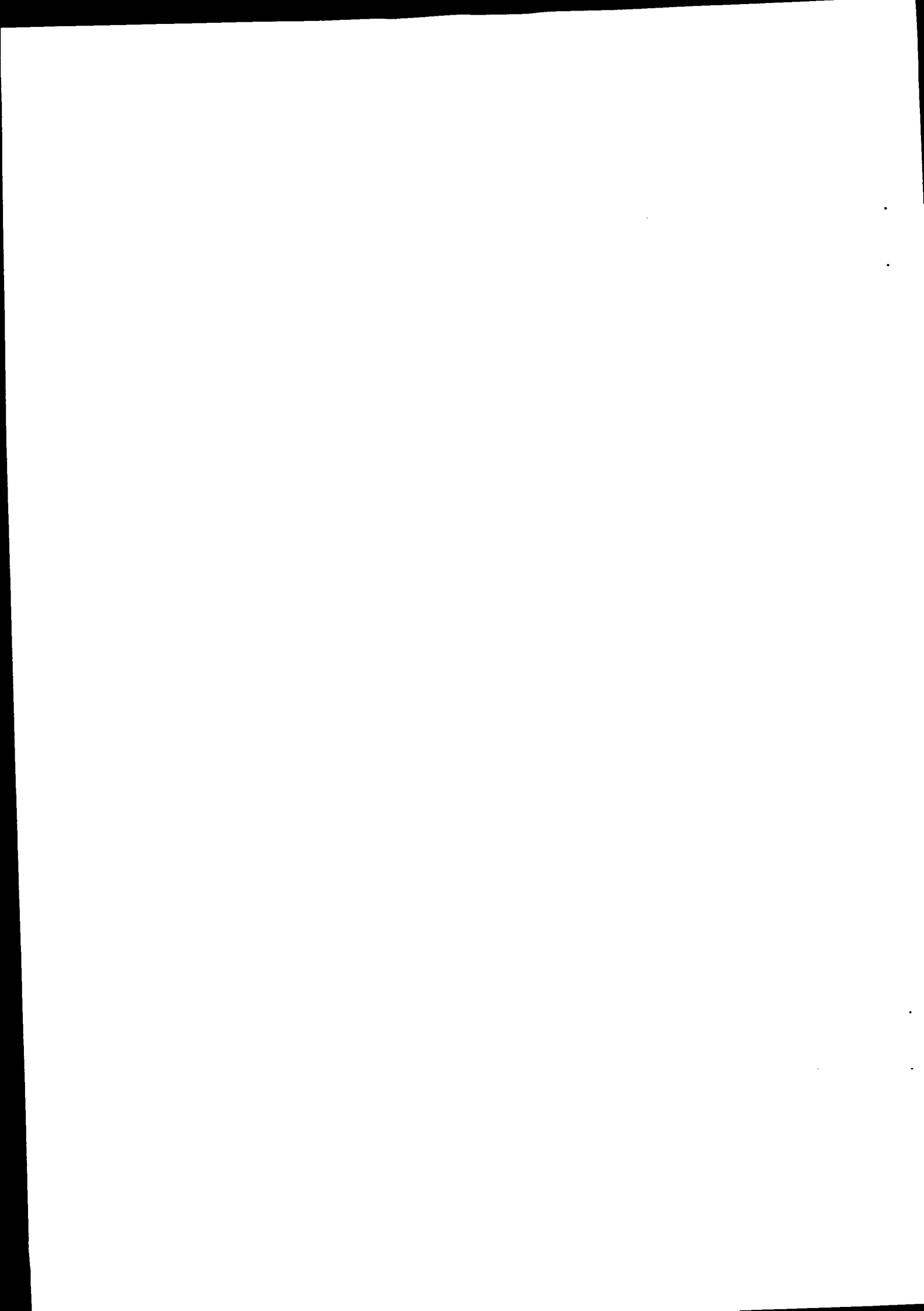
Provisional edition

Relations between Europe and the United States

Recommendation 1694 (2005)¹

1. The Parliamentary Assembly refers to its Resolution 1421 (2005) on Relations between Europe and the United States.
2. It recommends that the Committee of Ministers:
 - i. include issues of common concern to its member States and to the United States on the agenda of the Session of the Committee of Ministers at regular intervals and invite the United States to be represented;
 - ii. consider inviting the United States Government to be represented in the Third Summit of Heads of State and Government of the Council of Europe in the light of the topics on the agenda.

¹ *Assembly debate* on 27 January 2005 (6th Sitting) (see Doc. 10353, report of the Political Affairs Committee, rapporteur: Mr Azzolini). *Text adopted by the Assembly* on 27 January 2005 (6th Sitting).





Honouring of obligations and commitments by Georgia

Resolution 1415 (2005)¹

1. A year after coming into power, the new Georgian authorities continue to demonstrate an unyielding resolve to carry out far-reaching political, legal, social and economic reforms. They continue to enjoy broad support by the general public and the international community. The authorities' achievements so far, and notably the peaceful reintegration of Adjara, are positive developments but the authorities should maintain and accelerate the momentum of reforms in accordance with Council of Europe standards and principles. The Assembly welcomes the progress the Georgian authorities have achieved in the fight against corruption, the reform of the police force and the protection of religious freedom. It also welcomes the election of the new ombudsman and the creation of civil monitoring groups at the police stations throughout the country, the harmonization of media legislation with Council of Europe standards, the full decriminalization of libel law and the steps towards transformation of State television into public service broadcasting.

2. The Government's efforts to carry out reforms are conducted against the background of persisting instability in South Ossetia and Abkhazia. The co-rapporteurs fully understand the problems the authorities are facing because of the unresolved conflicts with the two break-away regions. They urge the Georgian leadership to maintain their restrained approach and continue to seek a peaceful, political solution. At the same time, it is essential to preserve the momentum of political and economic reforms. A successful, open, tolerant and democratic Georgia is the best asset in the efforts to peacefully resolve the confrontation with the present South Ossetian and Abkhaz regimes and restore the country's territorial integrity.

3. In this regard, the Assembly is encouraged by President Saakashvili's initiative to propose a peace plan for the two breakaway regions. It calls on the Georgian authorities to negotiate its terms with representatives of South Ossetia and Abkhazia, who should seize every opportunity to end the two longstanding conflicts and their damaging consequences for all the citizens of Georgia. The Assembly also calls on Russia to do its utmost to support the peace process and the restoration of the territorial integrity of Georgia.

4. Full compliance with membership obligations will help Georgia to reinforce its political stability and democratic security. The list of remaining commitments contains obligations related to virtually every major challenge Georgia is facing today, from the fight against corruption, the protection of human rights and rights of minorities, the reform of the judiciary to the efforts to restore the territorial integrity of Georgia through peaceful means.

5. In Resolution 1363 adopted in January 2004, the Parliamentary Assembly agreed to reconsider deadlines for Georgia's commitments to the Council of Europe as a sign of understanding and support to the new authorities. These deadlines are listed in paragraph 8 below. It should however be clear from the outset that there will be no subsequent negotiations and extensions and that the Assembly expects the Georgian Government to honour their promises fully and in time.

6. The extent of corruption and lawlessness in Georgia under the previous government resulted in the extraordinary character of the transition – the *Rose Revolution*. A year later, it is time to normalise the situation and bring the political process firmly back to the country's

¹ *Assembly debate on 24 January 2005 (1st Sitting)* (see Doc. 10383, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), Co-rapporteurs: Mr Eörsi and Mr Kirilov). *Text adopted by the Assembly on 24 January 2005 (1st Sitting)*.

institutions. The post-revolutionary situation should not become an alibi for hasty decisions and neglect for democratic and human rights standards. The priority is to build solid and lasting foundations for a stable, prosperous and democratic Georgia for the generations to come.

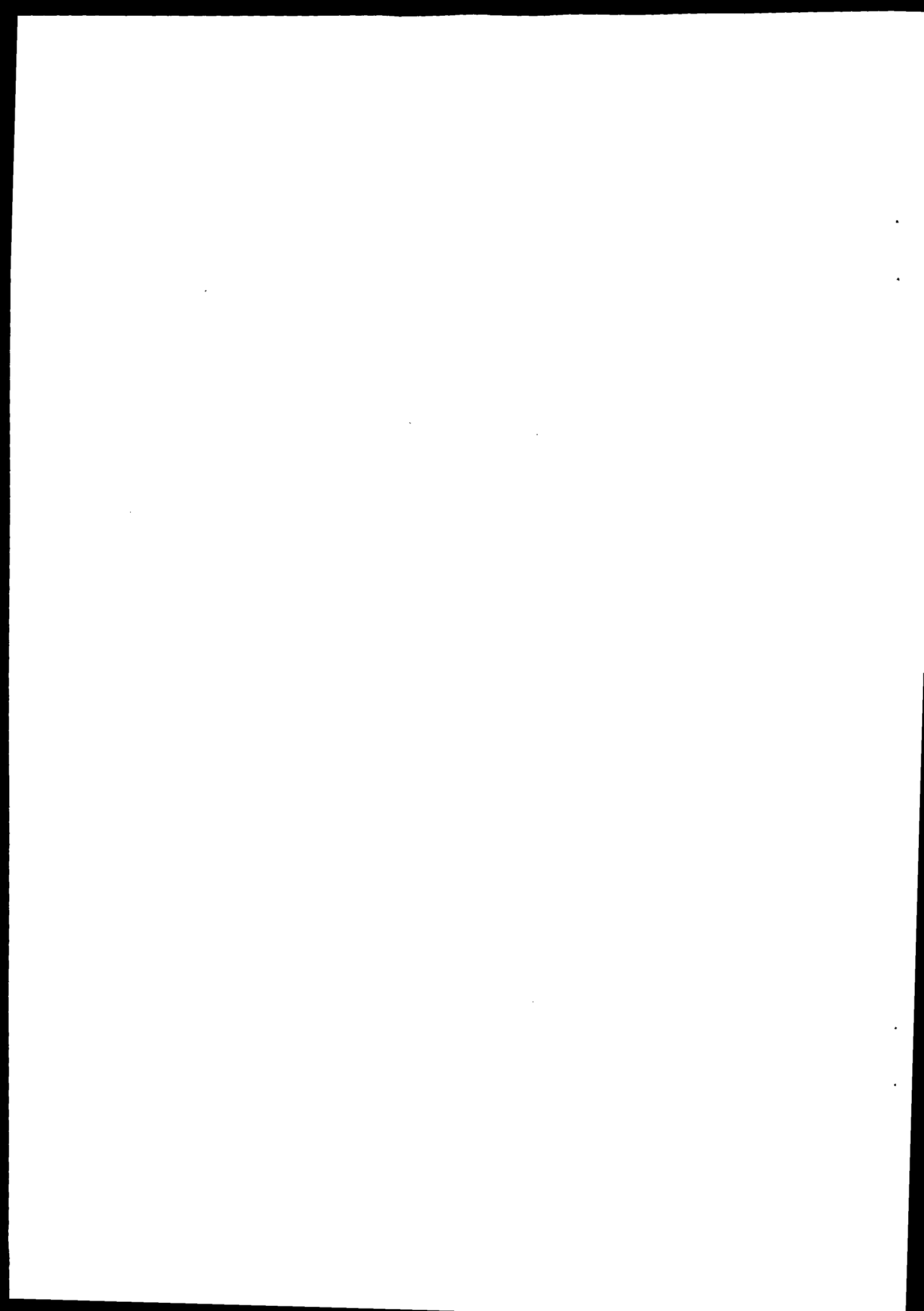
7. The *Rose Revolution* and the two subsequent elections, viewed on the whole as free and fair by the international observers, resulted in a very strong government, which may be an asset in dealing with the country's political, economic and security problems, provided that a strong government is accompanied by a strong and functioning system of checks and balances. This is not yet the case. Today, Georgia has a semi-presidential system with very strong powers of the President, a weak parliamentary opposition, a weaker civil society, a judicial system which is not yet sufficiently independent and functioning, underdeveloped or non-existing local democracy, a self-censored media and an inadequate model of autonomy in Adjara.

8. The Assembly therefore asks the authorities to create conditions in which a strong and efficient system of democratic checks and balances will emerge and begin to function. They should have a positive attitude to dialogue and be open to advice and engage in public discussions on critical voices. In the present circumstances this is one of the key requirements for the success of the reforms.

9. The Assembly, after having consulted the Georgian authorities, sets the following deadlines for the compliance with commitments and obligations and asks Georgia to:

- i. with regard to Council of Europe conventions:
 - a. sign and ratify the European Charter for Regional and Minority Languages and the European Outline Convention on Transfrontier Co-operation before September 2005;
 - b. ratify the Revised European Social Charter and the Framework Convention for the Protection of National Minorities before September 2005;
- ii. with regard to constitutional issues:
 - a. commit itself to the creation of a second parliamentary chamber to provide for the representation of its autonomous regions at the State level, once South Ossetia and Abkhazia are politically and administratively reintegrated into Georgia;
 - b. revise the recently adopted autonomous model for Adjara in the context of territorial and administrative reform of Georgia, in line with the Opinion of the Venice Commission;
- iii. with regard to the Meskhetian population – create, without any further delay, legal, administrative and political conditions for the start of the process of their repatriation with a view to its completion by 2011;
- iv. with regard to the 1990-1994 conflicts:
 - a. adopt a legal framework for the restitution of ownership and tenancy rights or compensation for the property lost during these conflicts by September 2005;
 - b. ensure that internally displaced persons enjoy equal rights with the rest of the population, particularly when it comes to employment and housing;
- v. with regard to local self-government – complete the territorial and administrative reform in time before the next local elections and ensure it is carried out in line with the European Charter of Local Self-Government, especially when it comes to the election of all mayors;
- vi. with regard to the functioning of the judiciary and the police:
 - a. complete the reform of the judicial system, the public prosecutor's office and the police, in strict compliance with Council of Europe standards and in close co-operation with Council of Europe experts;

- b. before their entry in force, consult Council of Europe experts on the recent Constitutional amendments on the appointment of judges of the Supreme and the Constitutional Courts of Georgia, in order to ensure their compatibility with Council of Europe standards and principles. The Assembly is particularly concerned that some of the proposed changes, notably the exclusive right of the President to nominate candidates for judges combined with the provision that all sitting judges will be dismissed upon entry in force of the new rules, but also the possibility that judges may serve two consecutive instead of one single mandate, may have a negative effect on the independence of these crucially important judicial institutions;
 - vii. with regard to the fight against corruption – intensify efforts to eradicate this phenomenon through long-term structural measures, in line with the GRECO recommendations and in full respect for the rule of law and human rights;
 - viii. with regard to the rule of law and human rights:
 - a. critically review the present practice of the “plea bargaining” system which – in the present form – on the one hand allows some alleged offenders to use the proceeds of their crimes to buy their way out of prison and, on the other, creates the risk for arbitrary, abusive and even politically motivated application;
 - b. consider urgent measures to alleviate the dramatic overcrowding in prisons and pre-trial detention centres, including through amnesty for some vulnerable categories of prisoners, such as ill, young and elderly offenders, expanded criteria for and use of non-custodial sentences, and broader application of alternatives to pre-trial detention;
 - c. eradicate the “culture of violence” which continues in Georgian prisons and pre-trial detention centres and has included incidents of torture and ill-treatment by law enforcement officers, through effective preventive measures, systematic investigation of allegations including timely medical examination and forceful sanctioning of proven incidents;
 - d. immediately eradicate all forms of torture.
10. The Assembly recalls that the decision to reconsider these deadlines for Georgia’s commitments, taken in January 2004, was a result of the extraordinary circumstances that occurred in the country. Consequently, this decision should in no way be considered as a precedent for reconsidering deadlines set by the Assembly in its opinions concerning the accession of other member countries.
11. In order to consolidate the system of democratic checks and balances, the Assembly asks the Georgian authorities to review the constitutional changes of February 2004, by taking into account the Opinion of the Venice Commission, especially with regard to the strong powers of the President. Before the next parliamentary elections, they should also lower the electoral threshold of 7 percent in order to create conditions for a pluralist and genuinely representative parliament.
12. The Assembly finally encourages the Georgian authorities to intensify their efforts to resolve the outstanding conflicts with South Ossetia and Abkhazia in a peaceful and political manner. At the same time, it calls on the Russian Federation to use its substantial influence to back these efforts and help to create conditions for a broad autonomy of South Ossetia and Abkhazia and the territorial integrity of Georgia. The Assembly welcomes the recent initiative for bilateral parliamentary dialogue between Russian and Georgian authorities and offers its good offices to help this initiative to bear fruit.
13. The Assembly resolves to continue its monitoring procedure and to review the compliance with Georgia’s commitments and obligations in October 2005.





Provisional edition

The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference

Resolution 1416 (2005)¹

1. The Parliamentary Assembly regrets that, more than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces and separatist forces are still in control of the Nagorno-Karabakh region.

2. The Assembly expresses its concern that the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. The Assembly reaffirms that independence and secession of a regional territory from a state may only be achieved through a lawful and peaceful process based on democratic support by the inhabitants of such territory and not in the wake of an armed conflict leading to ethnic expulsion and the de facto annexation of such territory to another state. The Assembly reiterates that the occupation of foreign territory by a member state constitutes a grave violation of that state's obligations as a member of the Council of Europe and reaffirms the right of displaced persons from the area of conflict to return to their homes safely and with dignity.

3. The Assembly recalls Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories. The Assembly also aligns itself with the demand expressed in Resolution 853 (1993) of the United Nations Security Council and thus urges all member states to refrain from the supply of any weapons and munitions which might lead to an intensification of the conflict or the continued occupation of territory.

4. The Assembly recalls that both Armenia and Azerbaijan committed themselves upon their accession to the Council of Europe in January 2001 to use only peaceful means for settling the conflict, by refraining from any threat of using force against their neighbours. At the same time, Armenia committed itself to use its considerable influence over Nagorno-Karabakh to foster a solution to the conflict. The Assembly urges both Governments to comply with these commitments and refrain from using armed forces against each other as well as from propagating military action.

5. The Assembly recalls that the Council of Ministers of the Conference for Security and Co-operation in Europe (CSCE) agreed in Helsinki in March 1992 to hold a conference in Minsk in order to provide for a forum for negotiations for a peaceful settlement of the conflict. Armenia, Azerbaijan, Belarus, the former Czech and Slovak Federal Republic, France, Germany, Italy, the Russian Federation, Sweden, Turkey and the United States of America agreed at that time to participate in this Conference. The Assembly calls on these states to step up their efforts to achieve the peaceful resolution of the conflict and invites their national delegations to the Assembly to report annually to the Assembly on the action of their governments in this respect. For this purpose, the Assembly asks its Bureau to create an Ad hoc Committee with inter alia the heads of these national delegations.

¹ *Assembly debate on 25 January 2005 (2nd Sitting)* (see Doc. 10364, report of the Political Affairs Committee, rapporteur: Mr Atkinson). *Text adopted by the Assembly on 25 January 2005 (2nd Sitting)*.

6. The Assembly pays tribute to the tireless efforts of the Co-Chairs of the Minsk Group and the Personal Representative of the OSCE Chairman-in-Office, in particular for having achieved a cease-fire in May 1994 and having monitored the observance of this cease-fire since then. The Assembly calls on the OSCE Minsk Group Co-Chairs to take immediate steps to conduct speedy negotiations for the conclusion of a political agreement on the cessation of the armed conflict, the implementation of which will eliminate major consequences of the conflict for all parties and permit the convening of the Minsk Conference. The Assembly calls on Armenia and Azerbaijan to make use of the OSCE Minsk Process and actively submit to each other via the Minsk Group their constructive proposals for the peaceful settlement of the conflict in accordance with the relevant norms and principles of international law.

7. The Assembly recalls that Armenia and Azerbaijan are signatory parties to the Charter of the United Nations and, in accordance with Article 93, paragraph 1 of the Charter, *ipso facto* parties to the Statute of the International Court of Justice. Therefore, the Assembly suggests that if the negotiations under the auspices of the Co-Chairs of the Minsk Group fail, Armenia and Azerbaijan should consider using the International Court of Justice in accordance with Article 36, paragraph 1 of the Court's Statute.

8. The Assembly calls on Armenia and Azerbaijan to foster political reconciliation among themselves by stepping up bilateral inter-parliamentary co-operation within the Assembly as well as in other forums such as the meetings of the Speakers of the Parliaments of the Caucasian Four. It recommends that both delegations should meet during each part-session of the Assembly to review progress on such reconciliation.

9. The Assembly calls on the Government of Azerbaijan to establish contacts without preconditions with the political representatives of both communities from the Nagorno-Karabakh region regarding the future status of the region. It is prepared to provide facilities for such contacts in Strasbourg, recalling that it did so in the form of a hearing on previous occasions with Armenian participation.

10. Recalling its Recommendation 1570 (2002) on the situation of refugees and displaced persons in Armenia, Azerbaijan and Georgia, the Assembly calls on all member and observer states to provide humanitarian aid and assistance to the hundreds of thousands of people displaced as a consequence of the armed hostilities and the expulsion of ethnic Armenians from Azerbaijan and ethnic Azerbaijanis from Armenia.

11. The Assembly condemns any expression of hatred portrayed in the media of Armenia and Azerbaijan. The Assembly calls on Armenia and Azerbaijan to foster reconciliation, confidence-building and mutual understanding among their peoples through schools, universities and the media. Without such reconciliation, hatred and mistrust will prevent stability in the region and may lead to new violence. Any sustainable settlement must be preceded by and embedded in such reconciliation processes.

12. The Assembly calls on the Secretary General of the Council of Europe to draw up an action plan for specific support to Armenia and Azerbaijan targeted at mutual reconciliation processes and to take this resolution into account in deciding on action concerning Armenia and Azerbaijan.

13. The Assembly calls on the Congress of Local and Regional Authorities of the Council of Europe to assist locally elected representatives of Armenia and Azerbaijan in establishing mutual contacts and inter-regional co-operation.

14. The Assembly resolves to analyse the conflict settlement mechanisms existing within the Council of Europe, in particular the European Convention for the Peaceful Settlement of Disputes, in order to provide its member states with better mechanisms for the peaceful settlement of bilateral conflicts as well as internal disputes involving local or regional territorial communities or authorities which may endanger human rights, stability and peace.

15. The Assembly resolves to continue monitoring on a regular basis the peaceful resolution of this conflict and decides to revert to considering this issue at its first part-session in 2006.



Provisional edition

Protection of human rights in Kosovo

Resolution 1417 (2005)¹

1. Kosovo is part of the territory of Serbia and Montenegro which has, since April 2003, been a member of the Council of Europe and, since 3 March 2004, party to the European Convention on Human Rights. As a result of United Nations Security Council ("UNSC") Resolution 1244 (1999), however, Kosovo is administered by the international community, led by the UN Interim Administration Mission in Kosovo ("UNMIK"), and its security is guaranteed by the NATO-led KFOR. UNSC Resolution 1244 requires UNMIK to protect and promote human rights in Kosovo as one of its main responsibilities and its exclusion of Serbia and Montenegro's jurisdiction precludes that state's obligations under international conventions from applying effectively to Kosovo.

2. Whilst UNMIK and KFOR have achieved some positive results in relation to the extremely difficult tasks with which they were charged in 1999 – in particular, routine security duties are now predominantly discharged by civilian police forces, the UNMIK police ("CIVPOL") and, increasingly, the Kosovo Police Service ("KPS") and much of Kosovo's administration is now undertaken by the local Provisional Institutions of Self-Government ("PISG") – serious concerns remain as regards the protection of human rights in Kosovo, especially after the tragic events of 17 to 19 March 2004. Kosovo is a part of Europe, and the fact that it is currently under interim administration should not deprive its habitants from the effective protection of European human rights standards.

3. In the Parliamentary Assembly's view, many of the substantive human rights problems faced by Kosovo, including matters relating to the issue of internally-displaced persons ("IDPs"), could be alleviated by enhancing and supplementing human rights protection mechanisms, within the context of the interim administration and without prejudice to the issue of Kosovo's final status.

4. The Assembly therefore recommends that UNMIK and KFOR/NATO, in accordance with the United Nations Security Council Resolution No. 1244:

i. commence work, in co-operation with the Council of Europe, towards establishing a Human Rights Court for Kosovo, with the following characteristics:

a. establishment by parallel agreements to be concluded between the Council of Europe on the one hand and UNMIK and KFOR/NATO (along with individual KFOR-participating states as appropriate) on the other;

b. jurisdiction over complaints alleging violations of the rights contained in the European Convention on Human Rights (the "ECHR") and its additional Protocols by UNMIK, KFOR and KFOR national contingents and the PISG;

c. composition of nine judges, five international and four local, the international judges being nominated by the Committee of Ministers of the Council of Europe, with one of these nominated in agreement with the Special Representative of the Secretary-General of the United Nations (the "SRSG"), and the local judges being nominated half by the majority community and half by the minority communities. Judges would be appointed by the President of the European Court of Human Rights;

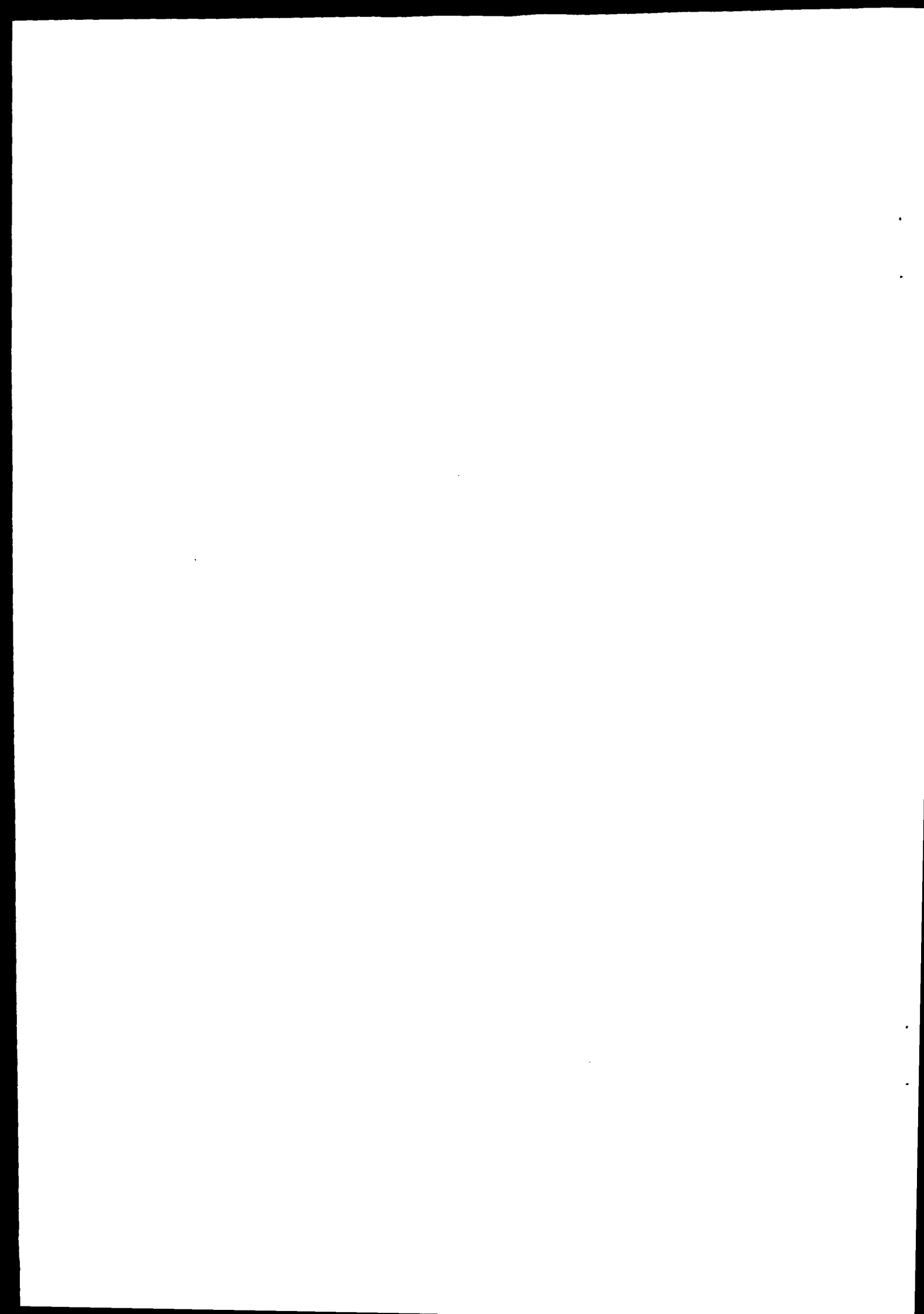
¹ *Assembly debate* on 25 January 2005 (3rd Sitting) (see Doc. 10393, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Lloyd). *Text adopted by the Assembly* on 25 January 2005 (3rd Sitting).

- d. procedures and case-law based on those of the European Court of Human Rights;
 - e. competence to receive applications from both individuals and the Ombudsperson, acting with their consent on their behalf;
 - f. when reviewing acts or omissions by UNMIK or KFOR, the Court would have international-only composition;
 - g. power to annul decisions and acts of UNMIK and KFOR and to award appropriate redress or compensation;
- ii. co-operate with the Council of Europe, in association with other interested parties, in particular Serbia and Montenegro, on a study of possible interim extension of the jurisdiction of the European Court of Human Rights to all the inhabitants of Kosovo.
5. The Assembly further recommends that UNMIK:
- i. establish the Special Chamber of the Supreme Court on Constitutional Framework Matters, with the following characteristics:
 - a. competence to receive applications from individuals or the Ombudsperson acting with their consent on their behalf;
 - b. jurisdiction to review all Provisional Assembly laws other than those which had been amended in promulgation by the SRSG so as to bring them into conformity with international human rights standards (which would be within the jurisdiction of the Human Rights Court for Kosovo);
 - c. composition of five judges, three local (two from the majority community and one from the minority communities) and two international, the latter being proposed by the President of the European Court of Human Rights, and all being appointed by the SRSG;
 - ii. improve the state of legal certainty, including by:
 - a. ensuring that UNMIK Regulations state clearly which, if any, previous instruments they revoke or amend, and if amended, how so;
 - b. ensuring that all legal instruments are published and disseminated to all concerned parties promptly and effectively, including by efficient use of information technology, with simultaneous high-quality translation into all official languages;
 - c. allowing for an appropriate *vacatio legis* following the promulgation of all legal instruments;
 - d. accompanying the future promulgation of new legal instruments by appropriate training of all concerned public officials, in particular those working within the judicial system and law enforcement agencies, to prepare them for the entry into force of such instruments;
 - iii. reinforce the judicial system, including by:
 - a. taking further steps to construct and maintain, both at general and local level, a judiciary reflecting the ethnic composition of Kosovo as a whole;
 - b. ensuring that there are sufficient judges for the case-load of the courts and that judges are allocated to courts in such a way as to achieve balance in individual case-loads;
 - c. continuing to ensure that any actual or apparent ethnic bias, submission to outside influence or corruption on the part of judges are countered, including through effective disciplinary measures, where appropriate;

- d. improving judicial salaries, so as to attract more of the most highly-qualified candidates and to avoid any temptation to accept bribes;
 - e. providing full and effective training to judges, prosecutors and lawyers on all aspects of the law, in particular new instruments such as the Provisional Criminal Code and Provisional Criminal Procedure Code and international human rights instruments applicable in Kosovo;
 - f. ensuring that all international judges have a proper command of at least one of the official languages, along with sufficient experience of a relevant legal system and of the applicable international human rights instruments;
- iv. maintain and strengthen the authority of the Ombudsperson Institution in Kosovo, including by:
- a. requiring the SRSB and PISB to give final responses to its recommendations within a reasonable time, with any refusal to accept such recommendations being properly justified;
 - b. respecting fully its obligations under UNMIK Regulation No. 2000/38 to co-operate with and provide access to documents to the Ombudsperson;
 - c. deciding that the "international" status of the Institution shall be maintained for as long as the international administration remains in Kosovo;
- v. create an Advisory Panel/Human Rights Commission consisting of independent international human rights experts nominated by the President of the European Court of Human Rights and appointed by the SRSB, charged with scrutinising (draft) UNMIK regulations and subsidiary instruments for compliance with international human rights standards, along with other tasks such as hearing appeals from the UNMIK Claims Office, and addressing to UNMIK opinions on issues, other than individual complaints, brought to its attention by the Ombudsperson;
- vi. improve the effectiveness of the Housing and Property Directorate ("HPD") and the Housing and Property Claims Commission ("HPCB") and of civil courts when dealing with property disputes, including by:
- a. ensuring that proceedings before the HPCB comply with the standards of Article 6 of the ECHR, with possible further appeal to the Human Rights Court for Kosovo, when established;
 - b. allocating sufficient resources to the HPD/CB;
 - c. ensuring that appropriate support is provided by the civilian police forces and through improved co-ordination between the HPD/CB and the courts;
 - d. guaranteeing that all IDPs will have their claims properly considered by an appropriate mechanism, whether the HPD/CB or the civil courts;
 - e. reinforcing measures against illegal constructions, in particular those on illegally-occupied land, by ensuring that courts and the police take appropriate action;
- vii. improve procedures for expropriation of property, including by:
- a. ensuring that the procedures set out in the 1986 Law on Expropriation and other applicable instruments with compensation respecting real property values are strictly followed;
 - b. enhancing the independence of the Claims Office, by including a majority of independent members on the claims panel;

- c. strengthening the standing of applicants and/or their legal representatives and providing for an effective right of appeal from the claims panel to an independent tribunal (this could be the Advisory Panel, with further appeal to the Human Rights Court for Kosovo, as each is established);
- viii. improve the status and effectiveness of the civilian police forces CIVPOL and the KPS, including by:
 - a. encouraging recruitment to the KPS from the minority communities and ensuring that all officers are posted in a way which inspires local communities' confidence in the KPS as a multiethnic force;
 - b. taking firm and effective action against any officers suspected of misconduct, especially any exhibition of ethnic bias;
 - c. transferring police stations to the control of the KPS as soon as circumstances allow;
 - d. ensuring that all police officers are fully trained in the new provisional criminal codes, notably with respect to detention provisions, and in relevant international human rights standards and in strict implementation of those codes and standards in practice;
 - e. promoting effective co-operation and co-ordination between the police forces and KFOR;
 - f. providing the police forces, in particular the KPS, with sufficient resources to discharge their duties effectively;
- ix. review the state of immunities, in particular by:
 - a. revising Regulation No. 2000/47 so as to ensure that the immunities of UNMIK and KFOR do not hinder the effective implementation of these recommendations;
 - b. ensuring that international officials, including police officers, are always subject to an effective criminal and civil jurisdiction, either local or in the country of origin.
- 6. The Assembly also recommends that KFOR, NATO and KFOR-participating states (as appropriate):
 - i. adhere strictly to the commitment to detain only where absolutely necessary and transferring immediately all detained persons to the custody of civilian police forces;
 - ii. revise and enhance the KFOR Detention Directive and Detention Review Panel, including by:
 - a. removing the qualification "every effort will be made" from the requirement to comply with all relevant international human rights standards, and ensuring in particular compliance with the standards of Article 5 of the ECHR;
 - b. reinforcing the authority and independence of the Panel by involving it in all detention decisions of the Commander of KFOR, composing it exclusively of independent lawyers, nominated by the President of the European Court of Human Rights, and making its decisions on detention binding, pending the establishment of a jurisdiction in these matters for the Human Rights Court for Kosovo;
 - c. ensuring that all persons arrested or detained are provided with legal representation on conditions equivalent to the relevant provisions of UNMIK Regulation No. 2003/26 on the Provisional Criminal Procedure Code;
 - d. furnishing detainees with copies of the Panel's decisions and, given the informed consent of the detainee, by publicising such decisions;

- e. ensuring provision of compensation for unlawful arrest or detention, equivalent to that provided for in the Provisional Criminal Procedure Code;
 - f. extending the competence of the Panel to include examination of allegations of other human rights violations committed by KFOR, in which cases it should also be able to recommend appropriate redress or compensation. Alternatively, should it be considered more appropriate, an agreement should be reached with the Ombudsperson to extend the Institution's jurisdiction to cover such allegations;
 - g. all KFOR-participating states accepting the jurisdiction of the Panel;
- iii. improve procedures for adjudicating on claims relating to expropriation of property, including by:
- a. providing a more effective right of appeal by including a majority of independent members on the KFOR Claims Appeal Commission and permitting further appeal to the Human Rights Court for Kosovo, when established;
 - b. all KFOR-participating states accepting the jurisdiction of the KFOR system, including its Appeal Commission;
- iv. promote effective co-operation and co-ordination with the civilian police forces and avoid any possibility of obstructing these forces' investigations;
- v. make the necessary arrangements with the Council of Europe for implementation of the mechanism of the European Convention for the Prevention of Torture at the earliest opportunity.
7. Finally, the Assembly recommends that the PISG:
- i. contribute to improving legal certainty by ensuring appropriate training of all public officials, especially those working within the judicial system, on the applicable law in force and in particular on new legal instruments and applicable international human rights instruments, in particular the ECHR and its Additional Protocols;
 - ii. ensure full and effective respect for human rights in policy and legislative development, including by:
 - a. establishing an inter-departmental task-force within the Provisional Government with responsibility for co-ordinating and mainstreaming human rights matters, including interethnic relations, good-governance and equality and possibly also community issues and returns;
 - b. creating a human rights committee within the Provisional Assembly to scrutinise draft laws and the acts of the Provisional Government;
 - iii. ensure that the procedures set out in the 1986 Law on Expropriation and other relevant instruments with compensation reflecting real property values are strictly followed;
 - iv. contribute to reinforcement of the Ombudsperson Institution in Kosovo by always co-operating fully with the Ombudsperson in accordance with their legal obligations, in particular that to comply with the Ombudsperson's requests for relevant information and documentation;
 - v. co-operate fully in the implementation of the existing and future agreements between UNMIK and the Council of Europe on the application of the latter's human rights protection mechanisms.





Provisional edition

The circumstances surrounding the arrest and prosecution of leading Yukos executives

Resolution 1418 (2005)¹

1. The Parliamentary Assembly, reaffirming its commitment to the Rule of Law as one of the Council of Europe's core values, is concerned by the shortcomings of the judicial process in the Russian Federation revealed by the cases of several former Yukos executives.
2. The rule of law requires the impartial and objective functioning of the courts and of the prosecutors' offices, free from undue influences from other branches of government and the strict respect of procedural provisions guaranteeing the rights of the accused.
3. The Rule of Law includes the equality of all before the law, regardless of wealth or power.
4. The right to a fair trial, as protected by Article 6 of the European Convention on Human Rights (ECHR), includes the right to a fair and public hearing by an independent and impartial tribunal established by law, the presumption of innocence and adequate time and facilities for the preparation of the defence. A fair trial requires respect of the rights of the defence, the privileged lawyer-client relationship and the equality of arms between defence and prosecution.
5. The public character of judicial proceedings, as guaranteed by Article 6 of the ECHR, is an important element of a fair trial, in the interests of the accused, but also of the public at large and its confidence in the correct functioning of the judiciary.
6. The Assembly stresses the importance of the independence of the judiciary and of the independent status of judges in particular and regrets that legislative reforms introduced in the Russian Federation in December 2001 and March 2002 have not protected judges better from undue influence from the executive and have even made them more vulnerable. Recent studies and highly publicised cases have shown that the courts are still highly susceptible to undue influences. The Assembly is particularly worried about new proposals to increase further the influence of the President's administration over the judges' qualification commission.
7. Facts pointing to serious procedural violations committed by different law enforcement agencies against Mr Khodorkovsky, Mr Lebedev and Mr Pichugin, former leading Yukos executives, have been corroborated during fact-finding visits whilst some allegations appear to have been exaggerated by the defence team. On balance, the findings put into question the fairness, impartiality and objectivity of the authorities which appear to have acted excessively in disregard of fundamental rights of the defence guaranteed by the Russian Criminal Procedure Code and by the ECHR.
8. The most serious corroborated shortcomings include the following:
 - i. despite specific requests of the defence lawyers, tests were not carried out in good time that could have established whether or not Mr Pichugin had been injected with psychotropic drugs; Mr Pichugin was also held in the "Lefortovo" prison that is not subject to the usual controls of the

¹ *Assembly debate* on 25 January 2005 (3rd Sitting) (see Doc.10368, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Leutheusser-Schnarrenberger). *Text adopted by the Assembly* on 25 January 2005 (3rd Sitting).

Ministry of Justice and remains under the direct authority of the Federal Security Service (FSB), contrary to a specific commitment the Russian Federation undertook when joining the Council of Europe;

ii. shortcomings in medical attention to Mr Lebedev in prison: in the face of serious concern about Mr Lebedev's deteriorating state of health, the prison authorities have so far refused to allow an examination of Mr Lebedev by independent doctors, despite repeated requests;

iii. delays in obtaining the prosecutor's permission have prevented the lawyers from entering into contact with their clients during a particularly critical time after their arrests, making it more difficult for them to organise their defence; a legislative reform abolishing the requirement of a prior permission from the prosecutor's office for a lawyer to visit his or her client in prison has not been applied in practice, at least not in the cases of the former Yukos executives;

iv. denial of access of Mr Lebedev's defence lawyers to the courtroom during the hearing deciding on his pre-trial detention;

v. search and seizure of documents in the defence lawyers' offices, summons of lawyers for questioning on their clients' cases and alleged eavesdropping against defence lawyers: The prosecution must not be allowed to circumvent the lawyer-client privilege by a simple play on case file numbers, especially when the cases are as closely related to one another as the criminal cases against MM. Khodorkovsky, Lebedev and Pichugin and the tax cases against Yukos and its subsidiaries;

vi. unjustified restrictions on the publicity of certain court proceedings: members of the public have had extremely limited access to certain hearings that were announced as public whilst other hearings were or are being held *in camera* in the first place. In particular, all proceedings against Mr Pichugin have been held *in camera* even though only a small portion of the case file has been classified as secret; his lawyers have been placed under strict instructions not to discuss the proceedings in public, even the reasons of the final judgment may be kept secret;

vii. denial of bail (in particular regarding Mr Khodorkovsky): Mr Khodorkovsky was placed in pre-trial detention several months after Mr Lebedev's arrest on very similar grounds, an arrest that media reports interpreted as a "warning" to Mr Khodorkovsky. Mr Khodorkovsky's conduct showed that there was no risk of absconding or of interfering with evidence. After the completion of the pre-trial investigation, Mr Khodorkovsky and Mr Lebedev were kept in custody which raises additional issues in light of the judgments of the European Court of Human Rights in the cases of Kalashnikov v. Russia and Letellier v. France. Also, following a recent legislative reform, persons accused of non-violent "economic crimes", such as those allegedly committed by Mr Khodorkovsky, are generally not placed in pre-trial detention.

viii. other unfair features of the trials against Mr Khodorkovsky, Mr Lebedev and Mr Pichugin: the court systematically allows the prosecutor to read out the minutes of the pre-trial interrogation of witnesses and to put pressure on the witness in the courtroom to simply confirm those minutes. This undermines the effectiveness of the right of the defence to question witnesses of the prosecution, whose pre-trial interrogation they are generally not able to attend. The defence lawyers are also not allowed to exchange written notes with the accused in the pre-trial detention centre and in the courtroom. They can only exchange notes after the court has first read them.

9. The Assembly notes that the circumstances surrounding the arrest and prosecution of the leading Yukos executives strongly suggest that they are a clear case of non-conformity with the Rule of Law and that these executives were - in violation of the principle of equality before the law - arbitrarily singled out by the authorities.

10. In particular, the allegedly abusive practices used by Yukos to minimise taxes were also used by other oil and resource companies operating in the Russian Federation which have not been subjected to a similar tax reassessment, or its forced execution, and whose leading executives have not been criminally prosecuted. Whilst the law was changed in 2004 and the alleged "loophole" thus closed, the incriminated acts date back to 2000 and retrospective prosecution started in 2003.

11. Intimidating action by different law enforcement agencies against Yukos and its business partners and other institutions linked to Mr Khodorkovsky and his associates and the careful preparation of this action in terms of public relations, taken together, give a picture of a co-ordinated attack by the State.

12. The criminal charges laid against persons who made use of the possibilities offered by the law as it stood at the time of the incriminated acts, following a retroactive change of the tax law, raises serious issues pertaining to the principle of *nullum crimen, nulla poena sine lege* laid down in Article 7 of the ECHR and also to the right to the protection of property laid down in Article 1 of the First Protocol to the ECHR.

13. The circumstances of the sale by auction of Yuganskneftegaz to "Baikal Finance Group" and the swift take-over of the latter by State-owned Rosneft raises additional issues related to the protection of property (ECHR First Protocol Article 1). This concerns both the circumstances of the auction itself, leading to a price far below fair market value, and the way Yukos was forced to sell off its principal asset, by way of trumped-up tax reassessments leading to a total tax burden far exceeding that of Yukos's competitors, and for 2002, even exceeding Yukos' total revenue for that year.

14. In view of paragraphs 8-12 above, the Assembly considers that the circumstances of the arrest and prosecution of leading Yukos executives suggest that the interest of the State's action in these cases goes beyond the mere pursuit of criminal justice, to include such elements as to weaken an outspoken political opponent, to intimidate other wealthy individuals and to regain control of strategic economic assets.

15. The Assembly recognises the right, and even the duty, of the law enforcement bodies to bring to justice the perpetrators of criminal offences. It also recognises the legitimate right of the elected political leadership to pursue its political objectives, including in the economic sphere. However, it strongly objects to the use of law enforcement procedures for such purposes. In this context, reference is made to the judgment of 19 May 2004 of the European Court of Human Rights in the *Gusinskiy* case in which the Court found that the detention in remand of N-TV founder Gusinskiy violated Article 5 of the ECHR because it had established that the applicant's prosecution had been used to intimidate him into selling off his stake in N-TV to Gazprom.

16. The Assembly therefore, in general terms,

i. calls upon the Russian authorities to vigorously pursue and implement reform of the legal and judicial system and of law enforcement agencies with a view to strengthening the Rule of Law and the protection of human rights and to continue co-operating with the Council of Europe, in the framework of ongoing programmes;

ii. encourages the courts to assert their independence vis-à-vis the executive authorities in assessing the guilt or innocence of all accused persons, applying the law in conformity with the European Convention on Human Rights;

iii. invites the authorities in charge of pre-trial detention centres to ensure that lawyers' access to their clients in detention is no longer subjected to any conditions not prescribed by law, notably to prior authorisation or recommendation by the public prosecutor, and to provide the conditions for the effective exercise of the defence rights of the persons in their custody, including the respect of the privileged relationship between lawyers and their clients;

iv. urges the competent authorities to ensure that all pre-trial detention centres, including Lefortovo isolation centre in Moscow, be subject to supervision by the Ministry of Justice, in line with earlier commitments by the Russian Federation.

17. As regards more specifically the cases of the former leading Yukos executives, the Assembly:

i. requests the executive authorities of the Russian Federation to guarantee the full independence of the judicial proceedings against leading Yukos executives from any attempt to influence them and to take measures to stop any such attempt;

- ii. requests the public prosecutors to carry out their work in these proceedings in a professional, impartial and objective manner, respecting the letter and the spirit of the procedural protections for the accused laid down in the Russian Criminal Procedure Code and the European Convention on Human Rights and the principles set out in Recommendation (2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system;
- iii. calls upon the courts to ensure effective public access to the hearings in the proceedings against the leading Yukos executives;
- iv. urges the competent authorities to ensure in particular that only those parts of the trial against Mr Pichugin remain closed to public scrutiny which are directly linked to information for which there is a legitimate need for secrecy, taking account the importance attached to the principle of open court hearings by the European Convention on Human Rights;
- v. urges the competent authorities to allow immediately an independent medical assessment of Mr Lebedev's state of health.



Provisional edition

Genetically Modified Organisms (GMOs)

Resolution 1419 (2005)¹

1. As the production and use of genetically modified organisms (GMOs) increases world-wide, the Parliamentary Assembly recognises that clear political rules which pay due regard to the precautionary principle are needed in order to ensure that new and traditional agricultural production methods are able to co-exist in the member states. The purpose of these rules must be to safeguard in the long term the ecological and economic fundamentals of human life and the biodiversity of our living environment.

2. The Assembly notes that biotechnological research and applications in the sphere of agriculture have contributed considerably to new knowledge about plants and animals. Major improvements have been achieved in breeding methods. However, a distinction has to be made between biotechnological methods in general and the specific method of gene transfer enabling scientists to produce GMOs.

3. It also notes that the production and use of GMOs is the subject of extreme controversy in Europe and that there is as yet no reliable information concerning their medium- and long-term environmental effects.

4. Huge investments have been poured into genetic applications. In addition to the large number of plant varieties approved world-wide, transgenic fish and genetically modified micro-organisms are about to enter the market.

5. According to the GMOs producers, the expected benefits range from the improvement of agronomic characteristics and lowering of production costs, with an associated increase in profits, to improved quality foods. Research is also taking place into the biological elimination of contaminants. Those new technologies should allow to meet better the needs of the developing countries.

6. The Assembly believes that although green biotechnology offers a broad spectrum of potential benefits, many risks - for example horizontal gene transfer - have not been sufficiently evaluated and should continue to be studied. While the risks to health associated with current GMOs can be regarded as slight, provided that safety controls prove effective, future developments with modified output characteristics will entail new and different risks that will have to be assessed on an individual basis.

7. Long term effects on biodiversity are difficult to estimate, particularly as there is no generally recognised definition of "ecological damage". The Assembly emphasizes that there are currently no uniform standards for the assessment of mandatory monitoring of crops in cultivation. Long-term monitoring is obligatory to allow the ecological effects of GMOs to be assessed.

¹ *Assembly debate* on 26 January 2005 (5th Sitting) (see Doc. 10380, report of the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mr Wodarg and Doc. 10406, opinion of the Committee on Culture, Science and Education, rapporteur: Mrs Fernández de Capel). *Text adopted by the Assembly* on 26 January 2005 (5th Sitting).

8. Too little attention has been paid to date to the breeding of transgenic animals and genetically modified micro-organisms. Experiments with transgenic domestic animals have been underway for many decades. The objectives are almost the same as those of conventional breeding methods: increasing productivity, particularly in the sphere of agriculture.
9. In addition to the health risks to humans (allergies, nutritional effects, zoonoses) which so far have hardly been examined, biotechnological modifications to domestic animals involve serious health effects for the animals themselves. The question arises as to whether it is ethically justifiable to develop transgenic animals for economic reasons.
10. The Assembly considers that besides the economic, social and ethic consequences, in particular the ecological consequences and a possible further reduction in locally endangered species of domestic animals must be taken into account.
11. The Assembly is aware that a great variety of political strategies for dealing with GMOs have been seen internationally. Whereas in the USA neither separation of the flow of goods nor mandatory labelling has been set up and in Brazil and Mexico repeated incidents of contamination of native species have been detected, the European Union has decided to align its policy on the side of caution and to allow producers and consumers permanent freedom of choice (strict approval process, labelling, co-existence). The GMO-free criterion has become a decisive quality criterion for export and import.
12. Several Council of Europe member states want stricter GMO regulations than those in force in the European Union as there are concerns that a creeping and uncontrollable spread of GMOs is taking place via countries in Central and Eastern Europe. Any action intended to undermine an explicit decision against the release of GMOs by the mere accomplishment of facts must be clearly rejected. Any illegal action designed to destroy the plants of release trials must also be rejected.
13. Since there has been a de-facto moratorium for the authorisation of GMOs since 1998, the European Union wishes to set up a uniform regulation for handling GMOs in the member states, in line with the negative attitude of consumers but also to further extend the innovative potential of biotechnology and to create reliable conditions for trade in GMOs approved in the EU. Within the EU, from April 2004, human foodstuffs and animal feeds, the production of which involves the use of biotechnological processes, must be labelled even if the products themselves no longer contain GMOs (transition from product labelling to process labelling). The labelling of GM animal feedstuffs is mandatory, though not the labelling of meat, milk and eggs from animals fed with GM feed.
14. The Assembly considers that the major reservations expressed by consumers are not only attributable to the fact that new products do not show any benefit. The loss of consumer confidence, particularly in the area of food manufacture, is due to a variety of causes and should be taken very seriously by producers, retailers and politicians irrespective of possible irrational factors. On the one hand, one must accept that individuals have different and differentiated perceptions of risk. On the other, it must be appreciated that the use and promotion of certain technologies do not take place in isolation but are bound up with more complex political decisions on matters such as the direction of agriculture policy or the use of public resources.
15. It states that to date it has been apparent that the use of gene technology in the agricultural sphere is a continuation of intensive farming, based on increasing yields with the help of chemicals. Relieving pressures on the environment by reducing the use of agrochemicals has proved not to have lasting benefits as resistance has developed. Land management in accordance with ecological principles offers an alternative to traditional practice which ought not to be jeopardised by an over-hasty plunge into widespread commercial cultivation of GMOs.
16. The Assembly believes that against a non-quantifiable risk involved in the release of genetically modified organisms there stands a so far unproven advantage for the consumer. Ethical aspects such as animal protection, the quite considerable supervisory and control requirements of long-term monitoring of the environmental effects, conformity with threshold values and, in future, the identification of potential health implications and the resulting costs, as well as the ensuing restrictions on existing freedoms to grow whatever crops one wishes, suggest that the social debate should continue and the research agenda be extended to include the concepts of sustainability.

17. It states that the present world trade situation should be regarded in terms of the demands of sustainable economic policy. The system of patents which protects intellectual property, for example, does not ensure a fair balance between the rich countries and the poorer ones. Patent law is increasingly proving a trick device for the acquisition of quasi-proprietary rights to agricultural resources. Patents on biological material intensify and consolidate dependencies and bring with them the danger of monopolies and merciless cut-throat competition to the disadvantage of farming structures and farmers. The social consequences of such economic promotion may create or aggravate serious problems of poverty.

18. The Assembly considers that the transgenic varieties developed to date are not suitable for growing in the developing countries but that it is vital to them that there should be technology transfer and not just the opening up of new market outlets. World hunger is the result of unfair distribution and the effective fight against poverty must start with trade structures and participation rights.

19. Consequently the Assembly recommends that Governments of member states when defining their policies on GMOs:

i. take into account four general principles:

a. *respecting freedom of choice for consumers and producers*: maintaining simple access to GMO-free foods is the central objective of GMO regulation. This implies that the viability of an agriculture without GMOs can be safeguarded in the long term. In contrast to other forms of traditional agriculture, regional organic farming cannot be safeguarded by threshold values above the limit of technical detection. In any case, consumers of organic products will not accept a tolerance of 0,9% GMOs;

b. *preserving sustainability in agriculture*: GMO-free agriculture should be guaranteed in law without ruling out the cultivation of GMO crops and the confined release of GMO for scientific purposes. Organic farming in particular deserves protection because it is the best form of agriculture in terms of ecological sustainability as mentioned in the Assembly's Recommendation 1636 (2003) on the development of organic farming;

c. *precaution*: given large gaps in scientific knowledge, both in the field of molecular genetics and with regard to ecological consequences, irreversible manipulation of nature and creeping contamination with transgenes should be avoided and the environmental precautionary principle recognised at all times;

d. *objectivity of the scientific debate and public participation* : it is in the interests of all concerned that a sound scientific base will be constructed at various levels of safety research, to make it possible for standards and regulations to be redirected, eased or tightened under agreed procedures. Only on the basis of broad social discussion can clear political decisions be taken. Research should also be more open to this debate. A debate involving the whole of society should focus not only on the risk aspects of green genetic engineering but also on the question whether or not social models, objectives and practical expectations justify the move into green biotechnology on a larger scale;

ii. bring safety standards relating to the use of GMOs into line with EU legislation as a minimum standard;

iii. additionally take precautions in view of:

a. *labelling of GMOs*: the labelling of animal products following the use of genetically modified feedstuffs should be a mandatory requirement. A consistent conception of process labelling ought to be strived for;

b. *labelling of seeds*: following the precautionary principle, compulsory labelling of the seed at the limit of technical detection (0,1%) is the most effective means of checking environmental consequences and securing conformity with threshold values for labelling purposes;

- c. *liability regime*: clear regulations on the questions of liability, together with clear decisions on who is to bear the additional costs incurred in making co-existence possible. These rules should obey the causal agent principle;
 - d. *good agricultural practice*: regulation of good agricultural practice in terms of production and use of GMOs (minimum distances, public register, etc.);
 - e. *GMO-free zones*: GMO-free reference areas should be established to fix natural baselines. Regional agreements for GMO-free zones should be possible to safeguard co-existence and ecologically sensitive areas;
 - f. prohibition of the cultivation of GMO crops, which contain marker-genes for antibiotic resistance;
- iv. take the following steps in view of the fact that the commercial introduction of transgenic domestic animals is imminent:
- a. *risk investigations*: thorough risk investigation in a number of areas (human health, animal health, ecological effects) is urgent. The use of genetically modified micro-organisms in livestock farming should consider the animal and his life cycle as a whole;
 - b. *secure fencing systems*: under no circumstances should genetically modified livestock be kept in open herds. In order to restrict the risks to the surrounding ecosystem arising from transgenic fish, these should not be kept in cage systems in the open sea;
 - c. *pharmaceutical products*: transgenic plants and animals supplying pharmaceutical products should be kept only in closed systems. A distinction must be drawn between health-promoting and therapeutic effects.
20. The Assembly recommends that Parliaments of member states and the European Parliament look after the proposed principles and measures being taken into account in their respective legislations.
21. The Parliamentary Assembly recalls its Recommendation 1425 (1999) on Biotechnology and intellectual property and the request that farmers may use their own harvest for reseeded in order to reduce the dependency on seed producers increasingly dominating the market.



Provisional edition

Prospects for peace in the Middle East

Resolution 1420 (2005)¹

1. The Parliamentary Assembly welcomes the election of Mr Mahmoud Abbas to the presidency of the Palestinian Authority. This election opens a new window of opportunity for a dialogue and renewal of a peace process in the Middle East.

2. The contacts between all parties concerned must be resumed immediately in order to take full advantage of the momentum resulting from the outcome of the election. The international community should actively contribute to the resumption of contacts between both parties. The United Nations, the United States, the European Union and Russia should assume their responsibilities in line with their international positions and aspirations and be much more actively involved in the negotiation process.

3. The Roadmap continues to be a valid reference for the peace negotiations and a two-state solution remains the only realistic political settlement of the conflict.

4. The political solution can only be achieved through an end to violence and terrorism. A ceasefire on both sides should be declared without delay. The Palestinian leadership should receive all possible support in its continued efforts to curb terrorism. The Assembly condemns, without reservation, all violence on both sides and in particular attacks against the civilian population.

5. It is essential that the democratic process within the Palestinian Authority continues. The international community should offer every assistance and support to the Palestinian leadership in carrying out this difficult task.

6. The Assembly strongly urges the Israeli and Palestinian sides to:

- i. declare a ceasefire without further delay;
- ii. immediately resume contacts and engage in a meaningful peaceful process and negotiations;
- iii. co-operate with international mediators.

7. The Assembly calls on the Government of Israel to:

- i. halt the military operations and extrajudicial executions of militants of Palestinian extremist organisations;
- ii. consider the withdrawal of military forces and settlers from Gaza as a part of the peace process in co-operation with the Palestinian side and not as an isolated step;
- iii. review its position concerning the construction of the security wall taking into account the decision of the International Court of Justice;

¹ *Assembly debate* on 26 January 2005 (5th Sitting) (see Doc.10427, report of the Political Affairs Committee, rapporteur: Mr Margelov). *Text adopted by the Assembly* on 26 January 2005 (5th Sitting).

- iv. put an end to the construction and expansion of the illegal settlements without any further delay.
8. The Assembly calls on the Palestinian leaders and in particular President Abbas to:
 - i. make full use of their authority and powers to halt attacks against the Israelis;
 - ii. take all appropriate measures to dismantle terrorist organisations;
 - iii. pursue democratic reforms.
9. The Assembly calls on the European Union and Russia to assume their responsibility and play a much more active role in the peace process.
10. The Assembly calls on the United States Government, in accordance with the United Nations Charter and in consultation with its European partners, to use its influence in order to achieve a just peace between Israel and the Palestinian Authority, as an indispensable part of a wider democratic process and prosperity in the Middle East.
11. The Assembly remains convinced that the involvement of the international community could play a decisive role in the successful settlement of the conflict. In this respect, contacts at parliamentary level would be of great importance.
12. The Parliamentary Assembly resolves to facilitate contacts between parliamentarians from the Knesset and the Palestinian Legislative Council and in particular instructs its relevant committees as well as its Secretary General to step up co-operation with their counterparts in both parliaments by organising joint meetings, conferences and training programmes. Furthermore, the Parliamentary Assembly expresses its readiness to observe the forthcoming elections to the Palestinian Legislative Council.
13. The Parliamentary Assembly invites the Political Affairs Committee to consider the possibility of using its sub-committee on the Middle East as a tripartite forum allowing parliamentarians from the Knesset, the Palestinian Legislative Council and the Parliamentary Assembly to sit together on an equal footing with a right to speak and make proposals for the sub-committee's agenda and actions.
14. The Assembly calls on the Venice Commission to provide the Palestinian leaders with expertise within areas of their competence, in particular in regard to the conformity of the Palestinian legislation with international standards.
15. The Assembly calls on the Congress of Local and Regional Authorities of the Council of Europe to consider possible co-operation with local authorities in the region, in particular with a view to twinning towns.
16. The Parliamentary Assembly, as a matter of principle, supports the peace efforts made by the prominent Israeli and Palestinian figures who launched the Geneva initiative on 1 December 2003 and opened up a new prospect for resolving the Israeli-Palestinian conflict. The Assembly calls on the members of the Knesset and the Palestinian Legislative Council to lend their support to the Geneva initiative and to step up these efforts towards peace.
17. Recalling its Resolution 1156 (1998) and Recommendation 1612 (2003) calling on the UN to establish an international fund ("Palestine Refugee and Displaced Persons Final Status Fund") to finance the permanent accommodation that is necessary to end the appalling conditions and poverty in the Palestine refugee camps, the Assembly recommends that the forthcoming international conference on strengthening the Palestinian Authority in London on 1 March take account of these proposals as a constructive and necessary contribution to the peace process.



Provisional edition

Relations between Europe and the United States

Resolution 1421 (2005)¹

1. The Parliamentary Assembly pays tribute to the benefits that for the past sixty years stemmed from a positive transatlantic partnership, both in terms of security and of prosperity. Transatlantic cohesion continues to be an irreplaceable factor promoting stabilisation and security.
2. The Parliamentary Assembly is concerned over the recent deterioration in the transatlantic relationship. While misunderstandings and miscommunications, notably in the run-up to the Iraqi war and during the war, certainly contributed towards the crisis in the United States-Europe partnership, it is obvious that genuine and long-standing differences of opinion concerning foreign policy issues exist between the two sides.
3. In the post Cold War world, we witnessed a shift in geopolitical security objectives and increasingly divergent national foreign policy strategies between European countries and the United States. These factors led to different approaches towards such issues as terrorism, aggressive behaviour by "rogue" states and international justice, as well as poverty and environmental degradation.
4. The Assembly recalls its Resolution 758 (1981) on Relations between Europe and the United States of America and Canada in which it emphasised that neither the democracies of Europe nor those of North America could face the challenges of the 1980s alone. More than twenty years later, the Assembly recognises the continued validity of this assertion.
5. Diminished transatlantic cohesion entails negative consequences for the world. A United States that is isolationist, or isolated, may be more prone to take unilateral, rather than multilateral (or coalition-based), actions. Unilateral actions may weaken international organisations and challenge the principles of collective security. Although the United States is stronger in military terms, it depends more than ever on its allies to gain legitimacy for its actions in the international arena. In other respects, the complementarity of the United States and Europe has been plainly illustrated during conflicts, such as Kosovo and Afghanistan. In those instances, and others, it has been demonstrated that while European states and institutions were unable or unwilling to wield, alone, the military might required to effectively face threats to global security, they can still contribute resources and expertise to carry out post-conflict peace-building and reconstruction efforts, participate in peace-keeping and take on major military tasks in co-operation with the United States in the framework of NATO or a "coalition of the willing".
6. The dangers posed by an entrenched divide between the United States and its European friends are recognised by all concerned, as is the pressing need to save the partnership. The United States and Europe share common values and have common interests which continue to provide a basis for their future relations. While recognising the inevitability of the structural reasons for a changing transatlantic partnership, the Parliamentary Assembly underlines the crucial role that active and frank dialogue between partners operating on the basis of mutual respect can play in ensuring the continued viability and dynamism of the transatlantic partnership.

¹ *Assembly debate on 27 January 2005 (6th Sitting)* (see Doc. 10353, report of the Political Affairs Committee, rapporteur: Mr Azzolini). *Text adopted by the Assembly on 27 January 2005 (6th Sitting)*.

7. The Assembly notes the EU-US Summit which took place in Ireland (26 June 2004) and welcomes the work that has been undertaken to resolve remaining differences between the United States and Europe over Iraq and notably the commitment to a continued and expansive engagement of the United Nations in Iraq. The Assembly recalls its Resolution 1386 (2004) on the Council of Europe's contribution to the settlement of the situation in Iraq and its support for a leading role for the United Nations in Iraq.

8. The Parliamentary Assembly recalls the results of its Inter-Parliamentary Forum on Transatlantic Dialogue (London, 19 April 2004) in which both members of the United States Congress and the Canadian observer delegation to the Parliamentary Assembly actively participated. The Forum concluded by calling for an institutionalised dialogue between members of the Parliamentary Assembly and the United States Congress. As the Forum proved, there is a wide range of issues which can and should be discussed, and misunderstandings which can be avoided, in frank dialogue. It also illustrated the variety of opinions not only between delegations but also within them.

9. Dialogue should focus in particular on how Europe and the United States can work together to emphasise the benefits of their complementarity. The two sides should agree on means to encourage democracy, respect for human rights, and renewed stability in failing states to find international strategies for effectively combating terrorism, while also respecting human rights and paying attention to the root causes of this phenomenon, and to strengthen the United Nations in order to make it more responsive to the needs of its members.

10. The Parliamentary Assembly is therefore eager to engage in a series of comprehensive dialogues with the United States Congress. The dialogue should be anchored in a shared commitment to human rights, pluralist democracy, international co-operation and focus on ways to strengthen the relationship and creatively address many of the challenges outlined above. The Parliamentary Assembly is ideally suited among European institutions for this vital transatlantic initiative due to its dedication to the maintenance of democratic security, human rights and the rule of law and because it is composed of elected members from 46 European national parliaments.

11. The Parliamentary Assembly considers that communication between European and United States' representatives would be improved if the United States Congress participated actively in the Parliamentary Assembly as an observer delegation.

12. The Parliamentary Assembly notes with interest the European Parliament Resolution on the State of the Transatlantic Partnership on the eve of EU-US Summit in Dublin on 25-26 June 2004 (B5-0185/2004) and especially the notion that existing relationships between the European Parliament and the Congress could eventually evolve into a EU-US Transatlantic Assembly. The Assembly should follow closely the developments and possibly seek involvement with the Transatlantic Assembly so as to avoid a confusing proliferation of similar institutions tasked with facilitating transatlantic parliamentary dialogue.

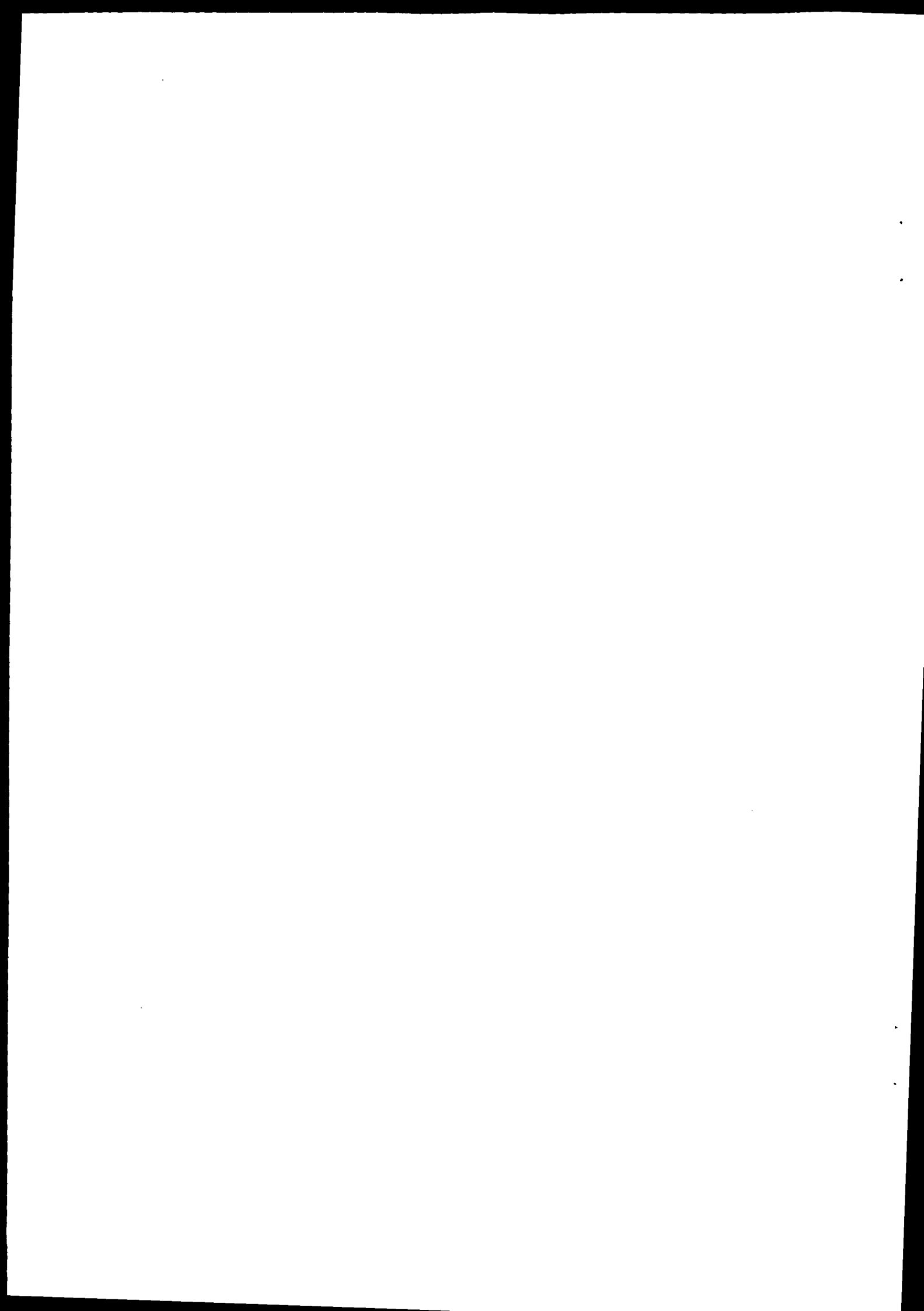
13. The Parliamentary Assembly calls on the governments of the Council of Europe member states and the United States to:

- i. engage in a frank dialogue to analyse the existing divergences in the partnership and to reaffirm their shared ideals;
- ii. find an agreement at a pragmatic level on how to best defend and safeguard their common values;
- iii. recognise and take advantage of their complementarities;
- iv. consider the question of responsibility and methods for the worldwide promotion of democracy;
- v. speed up their efforts, within the framework of the Quartet, for a settlement to the Middle East conflict, without which the G8 Broader Middle East and North Africa Initiative for improving democratic stability would have little chance of success;
- vi. intensify their joint efforts in the fight against terrorism, as well as the proliferation of nuclear and other weapons of mass destruction;

vii. prioritise dialogue and common action on other global security threats such as environmental degradation, ethnic hatred, poverty, mass migration and trans-national health hazards such as the spread of HIV/AIDS.

14. The Parliamentary Assembly calls on the United States' Congress to consider applying for observer status with the Parliamentary Assembly and in the meantime to take steps to designate a contact group in the Congress with whom the Assembly could pursue the proposed dialogue initiative.

15. The Assembly is conscious of the constructive role that the Canadian and Mexican observer delegations can play in reinforcing the transatlantic dialogue. It therefore appeals to them to share their experience with the Assembly and invites them to participate actively in the permanent transatlantic dialogue mechanism with the Assembly.





Provisional edition

Europe and the Tsunami Disaster

Resolution 1422 (2005)¹

1. The Parliamentary Assembly was deeply shocked by the disaster which struck South-East Asia and the countries surrounding the Indian Ocean and which claimed 280 000 lives and displaced 5 million individuals.
2. The Assembly would like first of all to express its immense sorrow at these tragic deaths and its deep sympathy with the families and close relatives of the victims in both the countries affected by the earthquake and the rest of the world and in particular in European countries.
3. The Assembly welcomes the generosity with which the international community has reacted. States and international institutions have pledged large sums of money and agreed to wipe out or to place moratoria on debts. Thousands of enterprises and millions of individuals worldwide have donated. In this connection, the Assembly stresses the need for the utmost transparency during the dispatch of these funds.
4. In view of the importance that pledges be fully met through actual disbursement – and in the awareness that such has not always been the case after similar disasters in the past – the Assembly resolves closely to monitor that the pledges are scrupulously honoured, without jeopardizing aid allocated to other areas.
5. The same holds for the timing and co-ordination of the assistance – from immediate relief to medium and long-term support – to the remote regions. The Assembly in this context welcomes the offer of the European Union, the United States and Japan to assist the region in installing a state-of-the-art tsunami early warning system.
6. The Assembly welcomes the decision taken during the Donors' Conference to designate the United Nations as co-ordinator of humanitarian aid. It is important that the United Nations take up this challenge by co-ordinating activities on the ground, assessing priorities and delegating responsibilities to the best-placed specialised agencies, as well as to the NGOs and in close co-operation with the local authorities.
7. Most of the infrastructures, transport links and energy sources have been destroyed. This has left the majority of victims without any means of subsistence, housing or livelihood.
8. Furthermore, the damage caused by the tsunami, which has also had an impact on marine fauna and flora, including the mangroves and coral reefs, is having an enormous effect on local populations, whose resources stem mainly from fishing and tourism.

¹ *Assembly debate on 27 January 2005 (7th Sitting)* (see Doc.10428, report of the Social, Health and Family Affairs Committee, rapporteur: Mrs Paoletti Tangheroni, and Doc. 10438, opinion of the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mr Högmark, Doc. 10437, opinion of the Committee on Migration, Refugees and Population, rapporteur: M. Hagberg, Doc. 10446, opinion of the Committee on Economic Affairs and Development, rapporteur: Mr Jonas and Doc. 10442, opinion of the Committee on Culture, Science and Education, rapporteur: Mrs Westerlund Panke). *Text adopted by the Assembly on 27 January 2005 (7th Sitting).*

9. The ensuing flooding has given rise to risks of such diseases as cholera, yellow fever and malaria. The poor health conditions and the lack of drinking water contributed to the risk of epidemics. It is therefore urgent to install an epidemiological monitoring system, particularly in the more remote areas.

10. Under these circumstances, it is essential that the United Nations make a co-ordinated vaccination and health campaign geared to preventing cholera and the other waterborne diseases.

11. In addition, the protection of the children who have been orphaned by the disaster must be a major priority for the humanitarian agencies.

12. According to UNICEF estimates, the number of children affected by the disaster amounts to around 1 500 000. The international community must act to prevent these children from becoming targets for trafficking, physical violence, sexual exploitation or recruitment by sects. In this context, the Assembly backs UNICEF's proposal to identify all the children as quickly as possible and implement measures to prevent trafficking in children.

13. The Assembly considers that child sponsorship must be promoted and established in order to protect the children from other traumas. In accordance with Recommendation 1443 (2000), the Assembly reiterates that international adoption must be used only as the very last resort.

14. The Assembly supports the appeal launched by the United Nations Donors' Conference for the donation pledges to be honoured and it stresses at the same time that this should not lead us to forget the victims of other crises which affected or still affect different regions of the world.

15. It must be recalled that 1.2 billion people worldwide live in poverty and that almost 1 billion, including over 150 million children under the age of five, suffer from malnutrition. In this context, the Assembly recalls the need for Council of Europe member states and all the donor countries of the international community to endeavour to achieve the objective set in Monterrey to earmark 0.7% of their GDP for public development aid.

16. Consequently, the Parliamentary Assembly requests that the member States of the Council of Europe, as regards :

i. Pledges and assistance

a. honour the commitments entered into in connection with pledged funds and assistance to the states struck by the tsunami, without prejudicing aid allocated to other areas;

b. support the activities of the United Nations Office for the Co-ordination of Humanitarian Affairs in its co-ordinating role;

c. facilitate the granting of the funds needed for reconstruction and rehabilitation, including the use of micro-loans;

d. implement the decision taken during the Conference of Kobe ;

e. establish an early warning and prevention system to detect earthquakes and tidal waves in co-operation with the Council of Europe's Major Hazards Partial Agreement (EUR-OPA) and concurrently provide education and training for the populations concerned;

f. support the proposed creation of a European Civil Intervention Force;

ii. Protection of children and vulnerable groups

a. provide psychological support for children and orphans;

b. as far as possible place children in homes in their own community or extended family and to undertake the necessary measures to, as quickly as possible, establish a regular check on their placements and life style;

- c. ensure that displaced children are registered as quickly as possible and prohibit minors from leaving the country with an unauthorized person;
- d. implement the requisite measures for sponsoring orphans;
- e. take the necessary measures for the protection of the elderly and the disabled;

iii. Health

- a. guarantee provision of medicines and medical care;
- b. introduce an epidemiological warning system;

iv. Environment and Local Affairs

- a. take the necessary measures to rebuild and rehabilitate housing and natural ecosystems;
- b. encourage twinning arrangements with the stricken regions and towns in close co-operation with Congress of Local and Regional Authorities of the Council of Europe;

17. The Parliamentary Assembly invites the governments of the countries affected by the disaster to:

- i. facilitate the humanitarian organisations' aid distribution work;
- ii. take the requisite steps to guarantee access by the needy to aid, irrespective of the victims' political conviction or ethnic or religious affiliation;
- iii. take the requisite steps to facilitate the operations and activities of the humanitarian agencies.

18. The Parliamentary Assembly proposes to take stock, within one year, of the real aid situation given by Europe, the United Nations and its specialized agencies as well as of the needs and to examine, in this context, the response provided and the responsibility taken on by Europe in the face of humanitarian disasters within and outside the borders of Europe.



Provisional edition

What solutions to Europe's unemployment?

Resolution 1423 (2005)¹

1. In several Council of Europe member states, unemployment has for several years stood at ten per cent of the active population or more. Unemployment is above all an affront to human dignity, since an individual's full realisation of his or her life can only come about as a result of personal achievement in the form of work and of social ties with others formed in a working environment. It also represents a drain on economic development in the form of an unrealised working contribution, higher government expenditure on unemployment benefits and foregone tax income. Beyond the duty to protect the unemployed against hardship, the state therefore has the superior obligation to shape society in such a way that unemployment can be kept to an absolute minimum.

2. Growing world economic openness and interdependence – frequently referred to as globalisation – are bringing fundamental change to Europe's economies, even as these undergo rapid integration between them, notably within the context of the European Union and, at world level, the World Trade Organisation. These processes will cause certain employment to be lost as less competitive activities are abandoned but will also bring new employment in many areas of activity, created as a result of increased trade and the higher disposable income resulting from lower prices of many products and services.

3. The European experience – with its widely differing unemployment rates between countries – shows that countries which adapt their economies and workforce more efficiently to globalisation also benefit from lower unemployment and more rapid growth. Since it is clear, therefore, that unemployment can in large measure be remedied through better policies, it is vital for Europe, including the European Union, to identify such policies or leave member countries free to follow their own policies or emulate the successful policies of others.

4. The need for structural reform is particularly pronounced in a number of major economies in the euro-zone, whose current economic recovery is due almost exclusively to an increase in exports toward faster-growing non-European economies rather than to domestic demand and whose capacity for growth is constrained by rigidities in the markets for labour, production and services to a level insufficient to reduce unemployment, or even stop it from growing.

5. The Parliamentary Assembly notes that little progress has been reached on the so-called Lisbon Agenda of the year 2000, in which the European Union's member states vowed to turn the area into the most competitive world region by 2010. This is all the more preoccupying as Europe at present experiences a major exodus of researchers and people with higher education to countries with better economic prospects, especially the United States. The realisation of the Lisbon Agenda and corresponding ambitions in other European countries will require not only greater stimulation of research but also fresh economic policies based on greater reward for initiative, entrepreneurship and work and greater flexibility in labour markets, such as lower taxes

¹ *Assembly debate on 28 January 2005 (8th Sitting)* (see Doc. 10359, report of the Committee on Economic Affairs and Development, rapporteur: Mr Högmark and Doc. 10431, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Gaburro). *Text adopted by the Assembly on 28 January 2005 (8th Sitting).*

on labour, a greater capacity for employers to adapt the workforce to changing circumstances, greater incentive to seek work, more decentralised wage bargaining and greater opportunities for part-time employment.

6. A good educational system and opportunities for life-long learning are also vital to long-term economic development and hence to reducing unemployment. Present high unemployment among young graduates shows, however, that educational opportunities will be of little use unless they can be employed in a growing and dynamic overall economy.

7. The European Union's recent enlargement to include numerous countries in central, eastern and south-eastern Europe and its various economic agreements concluded with other European countries, are highly welcome developments since they hold the promise of bringing higher growth and hence more employment to all the participating countries. EU policies must make the most of this potential by promoting growth policies of the kind outlined above, by reforming its Common Agricultural Policy and other support programmes in line with requirements of new economic realities and by promoting the World Trade Organisation's system of open and rules bound multilateral trade.

8. It is of particular importance to overcome massive unemployment in several countries in central, eastern and south-eastern Europe, where material standards are considerably lower and social protection less extensive. The ten new EU member countries need to benefit as soon as possible from the totality of provisions guiding the Internal Market – especially the “four freedoms” of movement of goods, services, capital and labour – and the agreements with all other European countries must be applied with particular consideration for their often precarious economic situation. Conversely, all European countries must recognise that no lasting economic growth, and hence overcoming of unemployment can be reached unless corruption and economic crime can be overcome, as foreign investment will shun countries suffering from such ills and domestic funds will not be forthcoming.

9. Countries with lower unemployment also tend to have higher employment rates, i.e. a higher proportion of their labour force participating actively in economic life. The Assembly – aware that higher participation rates give rise to higher growth and tax income and reduce the pensions burden – therefore commends efforts by countries to prolong working life where feasible.

10. It also notes the recent tendency in certain highly developed European economies to return to longer working hours in order to preserve employment and believes that such arrangements should as far as possible be settled between employers and employees independently, as long as they do not lead to any deterioration in their economic and social condition and are compatible with various international agreements, such as the Council of Europe's European Social Charter. This is all the more important since the social and economic stress experienced by many employees in Europe today, including the fear of loss of employment, is becoming acute and may impair their productivity and commitment.

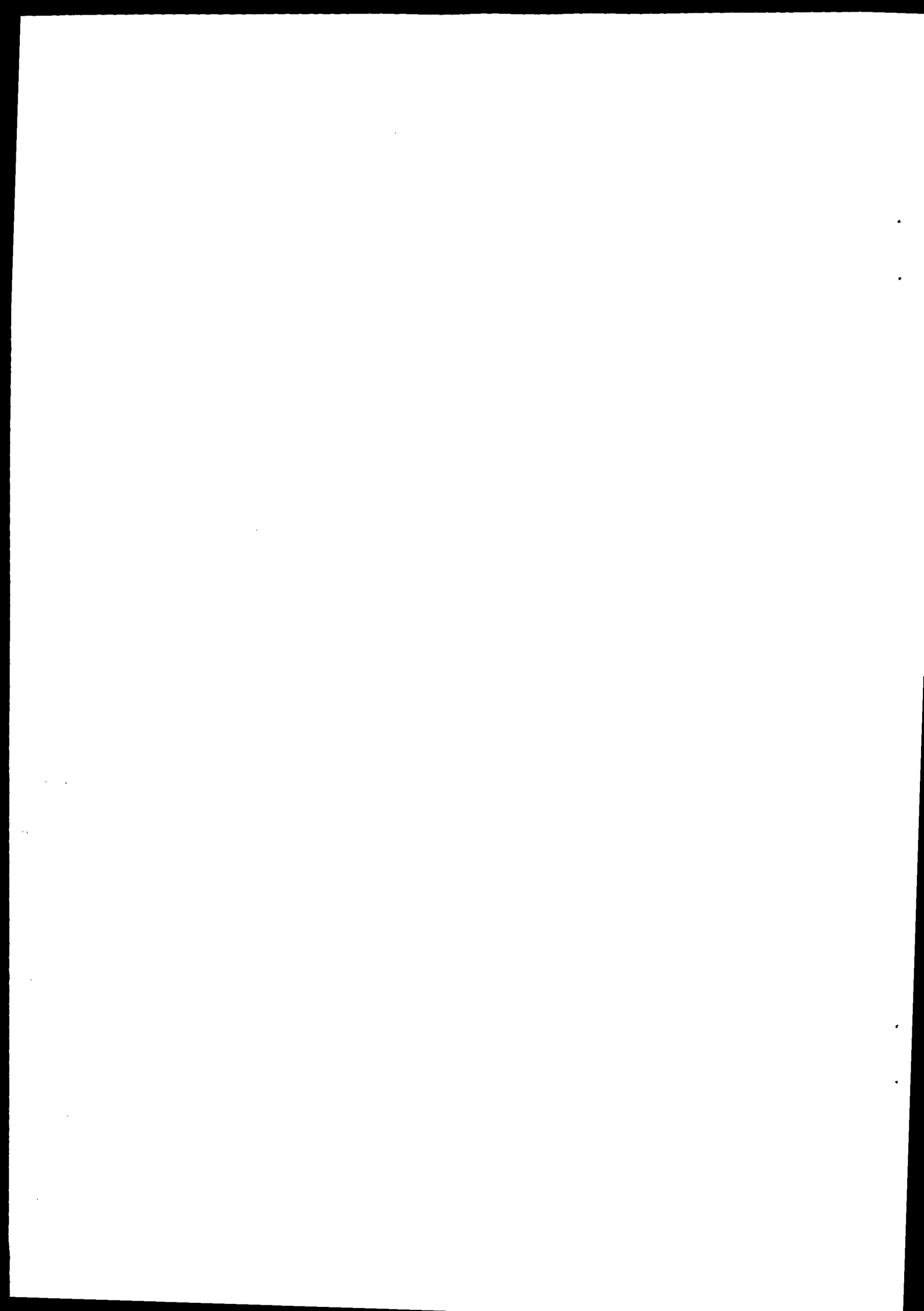
11. The Assembly believes that while certain social systems are in need of reform, existing social standards, as enshrined for example in the European Social Charter and the European Union's Charter on Fundamental Rights, must be upheld. Reforms should also take into account Europeans' current preferred balance between working and leisure time, as well as new demographic realities, such as the need for new services for the ageing. Reforms must also protect vulnerable groups in society, such as the elderly, migrant workers, the handicapped and the young and give them adequate opportunities. Employers should be strongly encouraged by corresponding legislation to hire from these groups. Parents, especially women, must benefit from better childcare facilities and other measures to facilitate family life – including care for the elderly in a rapidly ageing Europe – and young people should enjoy sufficient apprenticeship opportunities and maximum access to education.

12. The Assembly considers that the gender dimension of unemployment must also be addressed. While the situation varies considerably from country to country, in general, unemployment is higher amongst women than amongst men (9.7% for women in OECD Europe in 2003 compared to 8.6% for men). In addition, many unemployed women do not even show up in the unemployment statistics as they are what the ILO calls “discouraged workers”: workers who do not actively seek work although they do want to work, because they feel that no work is available to them, they face discrimination or structural, social or cultural barriers. Women also tend to have much lower labour force participation rates than men in Europe, which not only threatens the

economic independence of women and contributes to higher female poverty rates (especially in old age), but also hinders economic growth and diminishes tax income in European countries. It is thus vital that all Council of Europe member states fight female unemployment by ensuring equal access to the labour market for women and men, promoting higher labour force participation rates amongst women, making the workplace attractive to "discouraged" women workers, and ending discrimination against women in the workforce and the workplace.

13. In today's society women's labour is strongly linked to family choices and in many European countries also to the fertility rate. Generally, in those states which lack childcare facilities or other measures to facilitate family life - including assistance to elderly people - women are forced to choose between their professional career and maternity. It is therefore necessary that the Council of Europe member states put policies into place to help reconcile domestic work and employment outside the home. It is essential to focus attention on the family as the fundamental, natural cell of society with its role of transmission of values, of education and of defusing some social tensions. Maternity has to stay a normal event in a young woman's life, and should be supported as a choice that does not force women to renounce access to the labour market.

14. Finally, the Assembly warns that high unemployment may over time lead to a disintegration of social ties and to social instability. Society, employers and employees therefore have to work together in a spirit of mutual compromise to ensure that reforms can be carried out in as humane a manner as possible.





Provisional edition

Boosting social cohesion and employment: more and better jobs

Resolution 1424 (2005)¹

1. European governments are currently faced with the difficult task of harmonising two relatively opposing trends: the pressures of a globalised economy to contain public expenditure and reduce labour costs in order to remain competitive and a justified demand by European citizens to strengthen the European social model as a basis for a stable and socially prosperous Europe.

2. Rising unemployment levels and rapid population ageing in Europe are of strong concern to all governments, demanding wide-ranging and long-term political responses. Yet, too many countries are facing the problem of an excessive public budget deficit and a high level of debt that make it hard to finance the necessary reforms or investment in future development. The time has nevertheless come to rethink social policies and employment patterns in Europe in order to take up these challenges. This policy must be understood as a sound investment in the future and in improving the conditions of employment protected by the European Social Charter.

3. In this context, the Parliamentary Assembly stresses the necessity to develop a regulated, competitive job-creating economy. A narrow approach to labour market reforms will not suffice. Social cohesion requires the integration of economic, employment and labour policies and a range of proactive economic and social measures. This is also the aim of the European strategy adopted in Lisbon by the European Union in March 2000 and can only be achieved if a more proactive approach is adopted towards implementing the commitments entered into. If Europe is to meet its employment objectives by 2010 and increase its competitiveness and growth potential in the global economy, a trend break will be needed: both employment and productivity growth must accelerate strongly.

4. Thus, the Assembly stresses the importance of the following principles and conditions for the good governance of economic and employment policy (supply-side policies):

i. the development of an industrial, regional and public investment policy with a view to ensuring that the results of growth are shared among the various regions and provide a lever for investments in key frontier technology sectors as well as for innovation;

ii. diversification : the need to free entire regions from their exclusive dependence on a single sector or a large industry and to develop a favourable framework for the setting up and extension of small- and medium-sized enterprises;

iii. a good framework for social dialogue that should encourage creative social bargaining, coordinate pay negotiations and make it possible to negotiate flexible solutions that maintain job security on the basis of labour standards;

¹ *Assembly debate* on 28 January 2005 (8th Sitting) (see Doc. 10265, report of the Social, Health and Family Affairs Committee, rapporteur: Mrs Belohorská). *Text adopted by the Assembly* on 28 January 2005 (8th Sitting).

iv. active employment and labour market policies with the aim to strike a balance between a high level of employment and a high degree of social protection and to make employment the focus of economic policy and the fight against poverty, especially through the eradication of long-term unemployment;

v. industrial restructuring which should be guided by the best socially responsible management practices;

vi. impact assessment of fiscal policy on employment on a regular basis;

vii. the inception by the public authorities in the financial sector of a wider range of loans in order to better promote enterprise creation.

5. Job quality should be an objective that must be pursued at the same time as supply-side policies. Europe needs more and better jobs. It is also at the centre of the European strategy adopted in Lisbon, which promotes social cohesion, aims to strengthen productivity by increasing the level of security and job satisfaction and strives to counter marginalisation on the labour market.

6. The Assembly is convinced that the respect for the right to work, within the meaning of the (revised) European Social Charter, makes it necessary constantly to improve the effectiveness of policies relating to employment and employment services for all groups without discrimination.

7. The Assembly calls on its member states to pursue an employment-oriented social policy which encompasses policy measures aiming at:

i. increasing the adaptability of workers and enterprises;

ii. increasing levels of employment of the working age population by attracting more people to enter and remain on the labour market;

iii. investing more and more effectively in human capital and lifelong learning;

iv. improving quality of jobs and working conditions in order to reconcile paid work with family life;

v. better mobilising under-represented groups;

vi. achieving more equal sharing of paid and unpaid work between men and women;

vii. reducing labour costs through possible shifts in taxation.

8. Whilst recognising that there can be no "one-size-fits-all" employment strategy for the member states, international co-operation on employment can indeed contribute to the convergence of policies when it is based on a definition of mutually agreed goals, an objective method of evaluating policies and the exploitation of the good practices derived from joint assessment and performance indicators.

9. Its enlargement obliges the European Union to take into account in the employment strategy the many continuing differences between the two groups of countries as regards the employment and social protection situation. Yet, the accession countries represent one of the most dynamic regions of the global economy and they have a great growth potential that will be stimulated by their effective economic integration and by the implementation of the Lisbon Agenda adopted by the European Union in March 2000.



Provisional edition

Revision of the terms of reference of Assembly committees

Resolution 1425 (2005)¹

1. The Parliamentary Assembly adopts the revised terms of reference of the Assembly committees as reproduced in the appendix to the present Resolution. The latter will come into force on its adoption.
2. The Assembly also decides that the reports currently being prepared (including those stemming from orders adopted by the Assembly) which are not covered by the present revised terms of reference of Assembly committees should be submitted within two years from the entry into force of this Resolution.
3. The present Resolution supersedes Resolution 1176 (1998) and the appendix to Resolution 1235 (2000).

¹ *Assembly debate* on 28 January 2005 (8th Sitting) (see Doc. 10379, report of the Committee on Rules of Procedure and Immunities, rapporteur: Mrs Brasseur). *Text adopted by the Assembly* on 28 January 2005 (8th Sitting).

**APPENDIX
to the draft Resolution**

Draft revised terms of reference of Assembly committees

A. GENERAL TERMS OF REFERENCE APPLICABLE TO ALL ASSEMBLY COMMITTEES

1. Committees may examine any matter within their specific terms of reference (Rule 44.1 of the Rules of Procedure) and, possibly, table information reports on these matters (Rule 49.6).
2. Committees shall only prepare reports for debate in the Assembly:
 - on matters referred to them (Rule 24);
 - when so instructed by texts adopted by the Assembly (taking account of Rule 23.1.b);
 - when stipulated by the Assembly's Rules of Procedure;
 - when mandated to do so by their specific terms of reference.
3. Committees shall examine the action taken on texts adopted by the Assembly on the basis of their reports (Rule 44.2).
4. Committees may organise conferences and other events on matters within their specific terms of reference and which are linked to their work programme, subject to availability of funds.
5. Committees are entitled to establish and are responsible for developing working relations with:
 - the competent bodies (committees, etc.) of national parliaments of member states;
 - the competent bodies (committees, etc.) of European Parliamentary Assemblies (European Parliament, OSCE Parliamentary Assembly, CIS Interparliamentary Assembly and others) and of the Interparliamentary Union (IPU);
 - subject to decision by the Bureau of the Assembly, the competent bodies (committees, etc) of national parliaments holding observer or special guest status;
 - subject to decision by the Bureau of the Assembly, the competent bodies (committees, etc) of national parliaments of non-member States;
 - the relevant rapporteur groups, working groups and liaison committees of the Ministers' Deputies and rapporteurs of the Ministers' Deputies;
 - the relevant Council of Europe structures and bodies such as the European Court of Human Rights, the Congress of Local and Regional Authorities of the Council of Europe, the Commissioner for Human Rights, the Council of Europe partial agreements, the European Commission against Racism and Intolerance (ECRI), the European Committee for the Prevention of Torture (CPT) and the relevant intergovernmental expert committees.
6. Committees shall follow the activities of the Committee of Ministers in the fields covered by their specific terms of reference.
7. Committees are entitled to be represented in the Assembly's delegations to the relevant European Conferences of Specialised Ministers and to follow their activities.
8. Committees are entitled to establish and are responsible for developing working relations with the European and international non-governmental organisations which carry out activities within these committees' specific terms of reference (Rule 44.5).

B. SPECIFIC TERMS OF REFERENCE OF ASSEMBLY COMMITTEES

I. - POLITICAL AFFAIRS COMMITTEE (AS/Pol)

Number of seats: 83

Evolution: The committee is the successor to the General Affairs Committee established in 1949. Its title was changed to Political Committee in 1957 and to Political Affairs Committee in 1968.

Terms of reference:

1. The committee shall consider the general policy of the Council of Europe, i.e. all political matters which fall within the competence of the Council of Europe. It shall, if necessary, report on urgent political situations and crises in Council of Europe member states.
2. The committee shall in particular consider:
 - (i) requests for membership of the Council of Europe;
 - (ii) requests for granting observer status with the Council of Europe and with the Parliamentary Assembly, subject to the provisions of Rule 60 of the Assembly's Rules of Procedure;
 - (iii) requests for special guest status with the Parliamentary Assembly (in accordance with Rule 59.3 of the Rules of Procedure);
 - (iv) questions relating to the functioning and development of democratic institutions in Europe;
 - (v) major political challenges to modern society;
 - (vi) the prevention and settlement of crises and conflicts in, between, or having an impact on, Council of Europe member and observer states.
3. The committee shall consider activities of and co-operation of the Council of Europe with other European and international organisations, in particular the European Union, the OSCE and the United Nations.
4. The committee shall consider the situation in States which are not members of the Council of Europe in the light of the fundamental values of the Council of Europe, make proposals, and subject to approval by the Bureau, take political action to promote these values.
5. The committee may propose to the Bureau the conclusion of co-operation agreements with parliaments of non-member states.
6. The committee shall share the Assembly representation in the European Commission against Racism and Intolerance (ECRI) and in the Council for Democratic Elections of the European Commission on Democracy through Law (Venice Commission).

II. - COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS (AS/Jur)

Number of seats: 83

Evolution: The committee was established in 1949 with the title "Legal and Administrative Questions" and known from 1956 until the end of 1989 as the "Legal Affairs Committee".

Terms of reference:

1. The committee shall consider all legal and human rights matters (including proposals for and the preparation of statutory opinions on draft Council of Europe Conventions) which fall within the competence of the Council of Europe.
2. The committee shall in particular consider:
 - (i) human rights, fundamental freedoms and the rule of law in the member states of the Council of Europe;
 - (ii) judicial institutions (as well as ombudspersons and national human rights institutions), the police, detention centres and prisons in the member states of the Council of Europe;
 - (iii) the rights of national and other minorities;
 - (iv) questions of discrimination on any ground such as sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status with the exception of discrimination on the grounds of gender to be considered by the Committee on Equal Opportunities for Women and Men;
 - (v) all matters concerning the human rights treaties and mechanisms of the Council of Europe, notably the European Convention on Human Rights and its protocols, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as other international instruments;
 - (vi) criminal law and criminology, the treatment of offenders and conditions of detention;
 - (vii) legal and human rights issues of the fight against terrorism.
3. The committee shall give an opinion on the law, legal practice and the observance of human rights and fundamental freedoms of applicant states for membership of the Council of Europe to assess compliance with Council of Europe standards.
4. The committee shall promote Council of Europe standard-setting legal instruments in the field of respect for human rights, fundamental freedoms and the rule of law in non-member states.
5. The committee shall be in charge of interviewing all candidates for posts of judges to the European Court of Human Rights and the Council of Europe Commissioner for Human Rights before their election by the Assembly. It shall also examine the curriculum vitae of candidates to the European Committee for the Prevention of Torture.
6. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Commission on International Trade Law (UNCITRAL), the OSCE (notably the Office for Democratic Institutions and Human Rights – ODIHR and the High Commissioner on National Minorities), Hague Conference on Private International Law (HCCH), the International Law Commission and the International Institute for the Unification of Private Law (UNIDROIT).
7. The committee shall follow the activities of the European Ombudsmen Conference.

8. The committee shall participate in the work of the Council of Europe Group of States against Corruption (GRECO) and of the European Commission on Democracy through Law (Venice Commission).

9. The committee shall represent the Assembly in and follow the work of the relevant intergovernmental expert committees of the Council of Europe.²

10. The committee shall share the Assembly representation in the European Commission against Racism and Intolerance (ECRI).

² As of 31 December 2004 these committees are the following: the Steering Committee on Legal Co-operation (CDCJ), the Steering Committee on Crime Problems (CDPC), the Steering Committee on Human Rights (CDDH) and the Steering Committee on the Mass Media (CDMM).

III. - COMMITTEE ON ECONOMIC AFFAIRS AND DEVELOPMENT (AS/Ec)

Number of seats: 83

Evolution: The committee was established in 1949 as the Committee on Economic Questions. Its title was changed in 1956 to "Economic Committee" and again in 1968 to "Committee on Economic Affairs and Development" in order to clarify that it was the committee responsible for developing countries. This change was also intended to meet the concerns of the authors of a motion for a resolution (Doc. 2179) to set up a new general committee on the developing countries.

Terms of reference:

1. The committee shall consider all matters relating to economic co-operation, growth and development.
2. The committee shall in particular consider:
 - (i) economic development and co-operation across Europe, including employment policies, and the economic and development policies of the European Union especially as they affect members states of the Council of Europe which are outside the European Union;
 - (ii) world-wide economic co-operation and development;
 - (iii) development co-operation between industrialised and developing countries ("North-South" co-operation);
 - (iv) European transport policies;
 - (v) developments in European energy policy, in particular energy co-operation;
 - (vi) tourism development.
3. Following special agreements, the committee shall prepare annual reports on the activities of the Organisation for Economic Co-operation and Development (OECD) and the European Bank for Reconstruction and Development (EBRD). These shall be debated in the Assembly following presentations by the Secretary General of OECD and the President of the EBRD. For the preparation of the reports and debates the committee maintains relations with OECD and EBRD and with parliaments of non-member states participating in these debates.
4. The committee shall report on all budgetary and financial matters. The committee prepares in particular the Assembly's annual opinions on the Council of Europe's draft budget and on Assembly expenditure, considers the budgetary and financial aspects of future activities proposed by the Assembly and examines questions related to the Assembly's budgetary competences.
5. The committee shall consider questions concerning the Council of Europe's role in the co-ordination of conditions of service in the European international organisations and in the establishment of a European civil service.
6. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as the European Investment Bank (EIB), the European Free Trade Area (EFTA), the United Nations Economic Commission for Europe (UNECE), the Bretton Woods Institutions (the International Monetary Fund and the World Bank), the World Trade Organisation and other institutions (European Civil Aviation Conference (CEAC), International Air Transport Association). In the case of the Bretton Woods Institutions, the committee shall prepare a report on their activities in principle every three years.
7. The committee, together with the Committee on Culture, Science and Education and the Bureau of the Assembly, shall follow the activities of the Council of Europe North-South Centre.

IV. - SOCIAL, HEALTH AND FAMILY AFFAIRS COMMITTEE (AS/Soc)

Number of seats: 83

Evolution: The committee was appointed in 1949 and until 1988 it was known as the Committee on Social and Health Questions. It was then renamed at its own request to reflect its increasing preoccupation with matters relating to children, young people and the family.

Terms of reference:

1. The committee shall consider matters and future trends relating to social welfare, labour, public health, the family and vulnerable groups of the population. It shall evaluate, on behalf of the Assembly, the implementation by the member states and development of the European Social Charter and other relevant Council of Europe conventions.

2. The committee shall in particular consider:

- (i) ways of improving social cohesion within the member states, the contribution which social cohesion can make to political stability and ways to strengthen the European social model as a basis for a stable and socially prosperous Europe;
- (ii) social aspects of employment and unemployment policy, including the social aspects of globalisation and hospitable framework conditions for social dialogue;
- (iii) social policies affecting children, the elderly, people with disabilities and ways of increasing solidarity between the generations;
- (iv) questions relating to health, including the development of concerted European health policies and the fight against drug trafficking and abuse as well as the new ethical questions raised by biomedicine.

3. The committee shall have regular contacts with representatives of employers and employees of industry in Europe, in particular with the European Trade Union Confederation (ETUC) and the Union of Industrial and Employers' Confederations of Europe (UNICE).

4. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as the World Health Organisation (WHO), the International Labour Organisation (ILO), OECD and UNICEF.

5. The committee shall represent the Assembly in and follow the work of the relevant intergovernmental expert committees of the Council of Europe.³

³ As of 31 December 2004 these committees are the following: the European Committee on Social Cohesion (CDCS), the European Health Committee (CDSP) and the Steering Committee on Bioethics (CDBI).

V. - COMMITTEE ON MIGRATION, REFUGEES AND POPULATION (AS/Mig)

Number of seats: 83

Evolution: During the Ordinary Sessions of the Assembly in 1950 and 1951, two special committees were appointed to study refugee questions. In December 1951 the Assembly decided that the problems which confronted these two committees were sufficiently important and lasting to justify the creation of another general committee. The committee was named the Committee on Population and Refugees and was appointed for the first time at the opening of the ordinary session in 1952. In 1979 (Resolution 685), the committee was given the title "Migration, Refugees and Demography" in order to reflect its growing concern with general migration problems. In 2003 the word "demography" was replaced by "population" to better take into account its major activities in a transparent manner.

Terms of reference:

1. The committee shall consider all relevant matters relating to migration, refugee and population policy issues. It shall work and propose actions for closer European co-operation in these fields as well as, when relevant, with non-European countries.

2. The committee shall in particular consider:

- (i) questions relating to migration and refugees in Europe and in other parts of the world, including the problem of asylum-seekers and internally displaced persons as well as close co-operation between countries of origin, transit and destination;
- (ii) population trends in Europe and in other parts of the world and the social and economic effects of those trends;
- (iii) community relations in multicultural societies, including the situation and integration of migrant workers and their social, economic and political rights;
- (iv) humanitarian law and humanitarian issues.

3. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Global Commission on International Migration (GCIM), the United Nations Population Fund (UNFPA), the International Committee of the Red Cross (ICRC), the International Organisation for Migration (IOM), the International Labour Organisation (ILO) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

4. The committee shall represent the Assembly in and follow the work of the relevant intergovernmental expert committees of the Council of Europe.⁴

⁴ As of 31 December 2004 these committees are the following: the European Population Committee (CDPO), the Specialist Group on Roma/Gypsies (MG-S-ROM), the European Committee on Migration (CDMG) and the ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR).

VI. - COMMITTEE ON CULTURE, SCIENCE AND EDUCATION (AS/Cult)

Number of seats: 83

Evolution: The committee's name results from the merger of the Committee on Culture and Education and the Committee on Science and Technology in 2001. The Committee on Culture and Education was appointed in 1949 as the Committee on Cultural and Scientific Questions. Resolution 326 (1966) established a separate Committee on Science and Technology with specific terms of reference. The Committee on Cultural and Scientific Questions became at that time the "Cultural Committee". In 1968, the Cultural Committee was renamed to become the "Committee on Culture and Education".

Terms of reference:

1. The committee shall consider issues relating to culture in Europe and shall encourage cultural co-operation in Europe and between Europe and other parts of the world, in particular the Mediterranean area. Culture and cultural co-operation include the fields of science, education, the arts, heritage, media, youth and sport, but in no order of priority.
2. The committee shall in particular consider:
 - (i) the preservation of Europe's cultural heritage;
 - (ii) education and youth policy;
 - (iii) the media, including in particular questions of media ethics;
 - (iv) issues relating to freedom of expression and the role of the artist and censorship, development of respect for and tolerance of differing cultures, including minority cultures within the member states;
 - (v) sport;
 - (vi) scientific research;
 - (vii) the impact of scientific and technological developments in society.
3. The committee shall, on behalf of the Assembly, decide on the annual Council of Europe Museum Prize.
4. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as UNESCO, OECD, the European Cultural Foundation, the European Science Foundation, the European Parliamentary Technology Assessment Network (EPTA).
5. The committee, together with the Committee on Economic Affairs and Development and the Bureau of the Assembly, shall follow the activities of the Council of Europe North-South Centre. It shall also follow the activities of the European support fund for the co-production and distribution of creative cinematographic and audiovisual works "Eurimages".
6. The committee shall represent the Assembly in and follow the work of the relevant intergovernmental expert committees of the Council of Europe.⁵
7. The committee shall share representation in the European Commission against Racism and Intolerance (ECRI).
8. The committee shall represent the Assembly in the Council of Europe's Committee for Works of Art.

⁵ As of 31 December 2004 these committees are the following: the Steering Committee for Education (CDED), the Steering Committee on Higher Education and Research (CDESR), the Steering Committee for Culture (CDCULT), the Steering Committee for Cultural Heritage (CDPAT), the Steering Committee for the Development of Sport (CDDS), the European Steering Committee for Youth (CDEJ), the Steering Committee on the Mass Media (CDMM) and the Steering Committee on Bioethics (CDBI).

VII. - COMMITTEE ON THE ENVIRONMENT, AGRICULTURE AND LOCAL AND REGIONAL AFFAIRS (AS/Ena)

Number of seats: 83

Evolution: This committee results from the merger (2001) of the Committee on the Environment, Regional Planning and Local Authorities and the Committee on Agriculture, Rural Development and Food.

The Committee on the Environment, Regional Planning and Local Authorities was established in 1952 as a special committee on Municipal and Regional Affairs. It became a general committee in 1956. The subject of regional planning was added in 1968; the environment was added to the committee's title in 1986.

The Committee on Agriculture, Rural Development and Food was first created in 1951 as a special committee. It became a general committee in 1956. Its title was changed to "Committee on Agriculture and Rural Development" in 1994 and was renamed "Committee on Agriculture, Rural Development and Food" by the Assembly in April 2000.

Terms of reference:

1. The committee shall consider all matters relating to the environment, regional planning, agriculture, food and consumer protection as well as those relating to local and regional government.
2. The committee shall in particular consider:
 - (i) issues related to sustainable development from local to global level (protection of the environment, regional planning, natural resources' management) as well as sectoral policies (transport, energy, etc.) as they contribute to a sustainable environment and a well-balanced spatial planning;
 - (ii) issues relating to agricultural policies, rural development, fisheries, forestry, food and issues of consumer protection;
 - (iii) issues relating to local and regional authorities, such as local and regional democracy and self-government, transfrontier and interregional co-operation and urban planning and policies.
3. The committee shall, on behalf of the Assembly, select the candidates for, and the winners of, the Europe Prize and the other awards (European Diplomas, Flags of Honour and Plaques of Honour) for local authorities.
4. The committee shall follow the activities and maintain working relations with the Congress of Local and Regional Authorities of the Council of Europe.
5. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as the OECD, the Food and Agriculture Organisation (FAO), the United Nations Environment Programme (UNEP), the United Nations Economic Commission for Europe (UNECE) and the International Centre for Advanced Mediterranean Agronomic Studies (ICAMAS).
6. The committee shall follow the activities of the relevant European organisations and associations of local and regional co-operation.
7. The committee shall represent the Assembly in and follow the work of the relevant intergovernmental expert committees of the Council of Europe.⁶

⁶ As of 31 December 2004 these committees are the following: the Council for the Pan European biological and landscape diversity strategy (STRA-CO), the Committee for the activities of the Council of Europe in the field of biological and landscape diversity (CO-DBP), the Standing Committee of the Convention on the conservation of European Wildlife and natural habitats, the Standing Committee of the European Convention on the protection of animals kept for farming purposes, the Steering Committee on local and regional democracy (CDLR) and the Public Health Committee (CD-P-SP).

VIII. – COMMITTEE ON EQUAL OPPORTUNITIES FOR WOMEN AND MEN (AS/Ega)

Number of seats: 51

Evolution: Established by Resolution 1144 (1998).

Terms of reference:

1. The committee shall consider questions of equal opportunities for women and men and gender issues.
2. The committee shall, in particular, consider:
 - (i) equal opportunities for women and men and activities, policies and legislation related thereto in Council of Europe member and observer states, as well as in the Council of Europe itself and in its bodies;
 - (ii) questions of discrimination on the grounds of gender;
 - (iii) violence against women, including gender-related crimes such as "honour crimes" and "femicides";
 - (iv) trafficking in women;
 - (v) sexual and reproductive health issues related to women's rights and freedoms.
3. The committee shall follow-up on the compliance of the Council of Europe, its bodies, its member and observer states with the recommendations of the Parliamentary Assembly relating to equal opportunities for women and men.
4. The committee shall maintain relations with and participate in the meetings of the European network of parliamentary committees responsible for equal opportunities for women and men (NCEO).
5. The committee shall follow the activities of and maintain working relations with the relevant European and international organisations such as the United Nations Development Fund for Women (UNIFEM), the United Nations Economic Commission for Europe (UNECE), the Commission on the Status of Women (CSW), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR).
6. The committee shall follow the activities of UN World Conferences on Women and their preparatory conferences at the European level.
7. The committee shall represent the Assembly in and follow the work of the relevant intergovernmental expert committees of the Council of Europe.⁷

⁷ As of 31 December 2004 the committee concerned is the Steering Committee for Equality between Women and Men (CDEG).

IX. – COMMITTEE ON RULES OF PROCEDURE AND IMMUNITIES (AS/Pro)

Number of seats: 51

Evolution: The Committee was established in 1949 with the name "Committee on Rules of Procedure and Privileges". The subject "privileges" was removed in 1956. The words "and Immunities" were added to the committee's title in 1998.

Terms of reference:

1. The Committee shall ensure that the Assembly's Rules of Procedure are applied properly and that they – as well as the ancillary texts to the Rules - remain consonant with the Assembly's practice. It shall consider proposed amendments to the Rules, in accordance with Rule 65 of the Rules of Procedure.
2. The committee shall, in particular:
 - (i) advise the Bureau of the Assembly (following its request) on all matters of procedure or report to the Assembly or the Standing Committee on questions of interpretation or modification of the Rules of Procedure;
 - (ii) report to the Assembly on any contested credentials of Representatives and Substitutes, in accordance with Rule 7.2 of the Rules of Procedure, and give its opinion on any challenge of still unratified credentials and requests for annulment of previous ratifications of credentials on substantive grounds in accordance with Rules 8.3 and 9.2 of the Rules of Procedure;
 - (iii) report to the Bureau on any contested credentials of members of special guest delegations, after a joint meeting with the Political Affairs Committee, in accordance with Rule 59.6 of the Rules of Procedure;
 - (iv) consider questions relating to the privileges and immunities of members of the Assembly including those connected to the General Agreement on Privileges and Immunities of the Council of Europe of 2 September 1949 (Paris Protocol);
 - (v) consider requests for waiver of immunity referred to it under Rule 64 of the Rules of Procedure;
 - (vi) consider questions of the right of representatives and substitutes to participate in meetings and of the reimbursement of travel costs by national parliaments or governments;
 - (vii) keep under review the Assembly's committee structure and the functioning of the Assembly's system of committees and report on proposals for the setting up of new committees.
3. The committee shall, upon instructions from the Bureau of the Assembly, update the terms of reference of Assembly committees.
4. The committee shall consider questions of an institutional character referred to it by the Assembly or its Bureau.
5. The committee shall follow the evolution at European and international level of legal instruments concerning privileges and immunities of parliamentarians.

X. – COMMITTEE ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS BY MEMBER STATES OF THE COUNCIL OF EUROPE (MONITORING COMMITTEE) (AS/MON)

Number of seats: 83

Evolution: Established by Resolution 1115 (1997)

Terms of reference

1. The committee is responsible for seeking to ensure:
 - (i) the fulfillment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other conventions concluded within the Organisation to which they are parties;
 - (ii) the honouring of the commitments entered into by the authorities of member states on their accession to the Council of Europe.
2. The committee may propose to the Assembly to initiate a monitoring procedure when a member state is not fulfilling its obligations or not honouring its commitments.
3. The committee shall also consider applications to open a monitoring procedure originating from:
 - (i) the general committees of the Assembly by reasoned written application to the Bureau;
 - (ii) not less than ten members of the Assembly representing at least two national delegations and two political groups, through the tabling of a motion for a resolution or recommendation;
 - (iii) the Bureau of the Assembly.
4. The committee may also be instructed to carry out a monitoring procedure by decision pursuant to a text adopted by the Assembly or the Standing Committee.
5. The committee shall report to the Assembly once a year on the general progress of the monitoring procedures and at least once every two years on each country being monitored.
6. Once a post-monitoring dialogue with a member state has been decided by the Assembly, the committee shall pursue this dialogue on the follow-up given by the authorities of that state to the steps recommended by the Assembly in its adopted texts closing the monitoring procedure or on any other issues arising from that state's obligations. It shall subsequently report to the Bureau of the Assembly.
7. The committee shall follow the activities of and maintain working relations with the subsidiary bodies of the Committee of Ministers which are competent to monitor member states' obligations and commitments and with the relevant international institutions.
8. The committee shall share the Assembly representation in the Council for Democratic Elections of the European Commission on Democracy through Law (Venice Commission).

