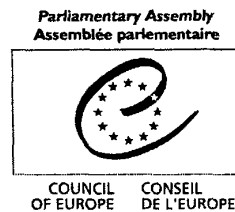


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REPORT

Fifteenth sitting

Thursday 28 April 2005 at 3 p.m.

In this report:

1. Speeches in English are reported in full.
2. Speeches in other languages are summarised.
3. Speeches in German and Italian are reproduced in full in a separate document.
4. Corrections should be handed in at Room 1059A not later than 24 hours after the report has been circulated.

The contents page for this sitting is given at the end of the verbatim report.

Mr van der Linden, President of the Assembly, took the Chair at 3.05 p.m.

THE PRESIDENT. – The sitting is open.

1. Minutes of proceedings

THE PRESIDENT. – The minutes of proceedings of the twelfth, thirteenth and fourteenth sittings have not yet been distributed, so their adoption is deferred to a later sitting.

2. Timings

THE PRESIDENT. – The first business this afternoon is the communication from the Committee of Ministers followed by questions. This business will last one hour. So, at 4 p.m., we will start the current affairs debate, on the European Constitutional Treaty, which is limited to one and a half hours under Rule 52.4. The last item this afternoon – the debate on the report on protection and assistance for separated children seeking asylum – will therefore start at 5.30 p.m.

3. Communication from the Committee of Ministers

THE PRESIDENT. – We will now hear the presentation by Mr Adam Daniel Rotfeld, Minister for Foreign Affairs of Poland and Chairperson of the Committee of Ministers, of the communication from the Committee to the Assembly on the activities of the Committee of Ministers, CM/AS(2005)3. This will be followed by parliamentary questions for oral answers. The list of written questions has been circulated, Document 10516.

Now I would like to welcome Mr Adam Daniel Rotfeld, Minister for Foreign Affairs of Poland and Chairperson of the Committee of Ministers.

As the Polish presidency will soon be coming to an end, this is an excellent opportunity to sum up its achievements. We hope to hear about the implementation of the priorities established by Poland in 2004.

Poland's presidency has come in an important period, as 2005 is the sixtieth anniversary of the end of the Second World War and the collapse of the Nazi regime, but that also marked a beginning of the division of Europe – a division that lasted over forty years and which in some areas is still to be overcome.

This has also been the period of the run-up to the Third Summit, which will be held in Warsaw in three weeks. The Parliamentary Assembly attaches great importance to this event, which will deal with essential questions of the European architecture and the priorities of our Organisation for the years to come. As you know, the Assembly has adopted Recommendation 1693 (2005), reflecting the parliamentary position on the possible outcome of the Third Summit and decisions to be taken by the heads of state and government on 17 May 2005.

It would be most interesting for us to receive the information concerning the follow-up given by the Committee of Ministers to this recommendation. I look forward to hearing your address.

I now invite the Chairperson of the Committee of Ministers to the rostrum.

Mr Rotfeld, you have the floor.

Mr ROTFELD (*Minister for Foreign Affairs of Poland and Chairperson of the Committee of Ministers*). – Mr President, distinguished members of the Parliamentary Assembly, Mr Secretary General, Mr Secretary General of the Parliamentary Assembly, distinguished guests, ladies and gentlemen, it is a great honour and privilege to address the Parliamentary Assembly today in my capacity as Chair of the Committee of Ministers of the Council of Europe, in order to present you with the communication on the activities of the Committee of Ministers since the last ordinary session in January.

You have already received an extensive written report, so let me now stress only a few issues of priority for the Polish chairmanship. I have in mind especially the preparations for the Third Summit, enhanced co-operation with other international organisations and some activities of the Polish chairmanship, including my last visit to Moldova, as Chairman of the Committee of Ministers.

As you all know, in three weeks, Poland will host the Third Summit of the Council of Europe. In that context, the Polish presidency has concentrated on preparations for this important event. It is a privilege and, above all, a big responsibility for us to live up to expectations, but I can undoubtedly say that

there is a common commitment among all participants to ensure that the summit results in political success. As we come closer to the event, I believe it is necessary to share with you some thoughts on the political content of the summit as well as information on the practical arrangements that we have made so far.

The purpose of convening the summit was to prepare our Organisation for the task of redefining its role in the twenty-first century. With that in mind, we will gather in Warsaw to confirm the mission of the Council of Europe, the oldest European organisation, so that it is capable of facing challenges and threats in the world in an effective way. The summit will take place in Warsaw, the city at the heart of Europe that was totally destroyed – in fact, killed – during the Second World War. However, it has now been resurrected and symbolises the European reunification process that, over the past fifteen years, has put an end to the arbitrary and artificial division of our continent following the Yalta conference decisions. I mentioned that Poland and Warsaw are at the heart of Europe, but I recently noted that seventeen European capitals consider themselves at the heart of Europe, including Brussels, Budapest, Prague, Berlin, Vienna and Kiev. In other words, Europe is an animal with many hearts. Bearing that in mind, it is obvious that the words “peace” and “unity” have a special meaning in our part of Europe.

During the two days in Warsaw, we will celebrate the success achieved twelve years after the Second Summit in Vienna by fulfilling the political mandate assigned to the Council of Europe to bring together all European nations on the basis of their shared commitment to democracy, respect for human rights and the rule of law. The forthcoming Warsaw Summit also aims to recall the significant progress made towards the strategic objective of “building Europe without dividing lines” fixed by the Second Summit in Strasbourg and by the Budapest Declaration adopted on the Council of Europe’s fiftieth anniversary.

However, as I have already said, the summit should look to the future rather than to the past. Our main task is to address the challenges that Europe and the whole world have to face nowadays. In the context of profound changes in the continent and its interaction with its main partners on the European and global scene, the summit will lay down guidelines for future action by the Council of Europe. Bearing in mind the ideas and proposals that member delegations, the Assembly and the congress have presented, the Committee of Ministers is currently drafting a political declaration and an action plan to be adopted by the heads of state during the summit.

Member states should renew their membership commitments to the core conventions of the Organisation. Moreover, they should declare stronger support for the Court of Human Rights and take concrete measures to deal with its caseload by scheduling a comprehensive strategy to that end, including the ratification of Protocol No. 14 to the Convention on Human Rights. In accordance with proposals submitted by the joint Assembly and several member states, a forum for the future of democracy should be established by the summit to tackle the special new challenge of reinforcing democracy. The political declaration will also strongly underline the importance of intercultural dialogue within European society and with neighbouring regions.

The declaration will emphasise the importance of social cohesion in line with the statute of our Organisation and the challenges facing European society. The political declaration will address the important task of ensuring more complementarity and co-operation among three European institutions – namely, the Council of Europe, the Organization for Security and Co-operation in Europe, and the European Union.

The action plan will reflect the main ideas presented in the declaration that will be discussed during the three summit sessions and provide concrete guidelines for the Council of Europe to follow and goals for it to fulfil in future. Member countries have proposed concrete measures that should be adopted to strengthen the Court of Human Rights, mainly within the existing structures of the Council of Europe. They have also proposed new actions to defend human rights, the rule of law and democracy in Europe as well as to ensure social cohesion, given the new challenges in that field.

I should like to take the opportunity to thank the Parliamentary Assembly warmly for the very substantial and comprehensive contribution it made to the ongoing negotiations through the adoption of Recommendation 1693 on the Third Summit last January. The Committee of Ministers found these ideas very far-reaching and inspiring, and we have tried, wherever possible, to include them in the documents prepared for the summit. In replying to parliamentary questions, I will give you more detailed insight into the various suggestions of the Parliamentary Assembly that have been taken up either in the declaration or in the action plan. I deeply appreciate all the contributions from member states, which were extremely helpful in the process of elaborating both documents.

Mr President, with your permission, I should like to mention that the Third Summit will undoubtedly endorse the three conventions on the prevention of terrorism, action to end trafficking in human beings, money laundering and the financing of terrorism that the Assembly debated in its January session. Now, after long negotiations on a few remaining issues, we are very close to finalising the texts. It would be a real success for the Council of Europe – a common success for us all – if we could have them ready for signature during the summit. The Committee of Ministers and the Chair have been active in making sure that the necessary steps are taken to deal with the organisational aspects of the summit. Invitation letters have been sent to all participants, including the President of the Parliamentary Assembly, and a preliminary programme has been drawn up. I should like to express my thanks to all delegations who have confirmed their attendance in Warsaw at the highest possible political level.

A great deal of effort has been made to guarantee the transparency of the summit so that it is open to the European public. We expect effective participation and, to ensure it, we plan to broadcast the summit through the means of modern IT and communications. This will be the first time that the general public will have the opportunity to follow fully and directly such a high-level diplomatic meeting.

We have planned a wide range of activities that will take place in Warsaw during the Third Summit, including intellectual debates and events on topics central to the aims of the Council of Europe aims. To make Warsaw an open and attractive city with a friendly atmosphere, some interesting cultural events are planned for the weekend preceding the summit, notably film shows, theatre performances, exhibitions and concerts. Those events include the "Warsaw Night for Europe" when we will celebrate "Europe Day". A youth summit and a Council of Europe conference for international non-governmental organisations are expected to take place during the summit.

Strengthening the unity of our continent by eliminating new dividing lines is the main motto for the summit and also one of the priorities identified by the Polish chairmanship. To achieve that, the Council of Europe needs to focus on a better co-ordination of activities with the main European institutions, especially the European Union and the Organization for Security and Co-operation in Europe.

With that in mind, during its chairmanship Poland has continued efforts to ensure the development of new synergies in European co-operation. To create enhanced co-operation with the European Union and the OSCE, high-level meetings were organised with both the OSCE, at the 2+2 meeting in Strasbourg on 23 February 2005, and with the European Union, at the quadripartite meeting in Brussels on 16 March 2005.

At the quadripartite meeting with the European Union, we expressed the wish that the summit would confirm the role and mission of the Council of Europe with a strong message concerning the relevance of the values shared by all European democracies. The key role of multilateralism was stressed as a means of solving the major problems of our time, and there was emphasis on the specific contribution that the Council of Europe could make – through its role in standard-setting, monitoring, awareness-raising and assistance to member states – as part of a concerted effort to strengthen the unity of the European continent and avoid further dividing lines.

In this connection, we welcomed the concrete proposal put forward by the European Union with regard to arrangements for future co-operation between the two institutions characterised by partnership and complementarity. We are willing to devote tangible means to strengthening coherence between the Council of Europe conventions and the European Union's legal *acquis* and enabling the EU to make full use of the Council of Europe's expertise in fields where it presents an added value.

Last but not least, we supported the European Union's proposal for a review of consultation and co-operation mechanisms at all levels, to strengthen them and more effectively to guide and manage the prospective consolidated relations between the European Union and the Council of Europe. It is desirable that a memorandum of understanding be drawn up on that basis to define, in concrete terms, arrangements for enhanced co-operation and political dialogue between the two institutions.

Some practical steps have been undertaken to make co-operation more effective. A European Commission representative to the Council of Europe has been appointed in Strasbourg. We expect some progress in work on technical arrangements for the European Union's accession to the European Convention on Human Rights so that the Union can accede to the Convention as soon as the Constitutional Treaty of the European Union comes into force.

In the same spirit, during the meeting, the importance of complementarity and co-operation in connection with the prospective fundamental rights agency for the European Union was stressed, and the fact that this was a likely prospect was welcomed. Similar provision should be made for complementarity

and co-operation in connection with the plans for a linguistic diversity agency and an institute for gender equality.

At the 2+2 meeting held with the OSCE, we stressed the important roles of the Council of Europe and the OSCE in promoting security, co-operation, peace and stability across the continent and creating a Europe without dividing lines based on the core values of human rights, democracy and the rule of law.

We committed ourselves to enhancing co-operation between the OSCE and the Council of Europe in order to ensure complementarity and avoid unnecessary duplication of activities. On this occasion I should like to welcome the decision of both organisations to establish a co-ordination group that will carry this work forward.

The elaboration of a political declaration on OSCE-Council of Europe co-operation is at the final stage. I am glad that the draft declaration text was accepted at the joint meeting between the Committee of Ministers of the Council of Europe and the Permanent Council of the OSCE held in Strasbourg on 18 April. It gives us a signal for the long-term political commitment on the part of the two organisations' member states towards the process of co-operation and mutual support.

The enhanced co-operation should have clear aims: avoiding unnecessary duplication, exchanging experience and reducing the costs of the organisations' activities. The most important task for them is to outline fields for co-operation. It can be developed on a number of regional and thematic issues, mainly combating terrorism, trafficking in human beings, fighting intolerance and discrimination and protecting national minorities. Special attention should be paid to continued building on good practices of co-operation, creation of synergies and harmonisation of work between the OSCE and the Council of Europe in the field. The solution of conflict situations through political dialogue is an important prerequisite to democratic stability and sustainable development of the regions where the two organisations operate.

The meetings with the EU and the OSCE during our chairmanship could be considered significant steps in the ongoing processes aimed at reinforcing the co-operation between the European organisations. Adoption during the summit of the framework documents regarding this co-operation would be seen as a joint achievement. These documents would include political recommendations for organisational and legal adjustments. With that aim in mind, we invited to Warsaw the group of eminent intellectuals, security analysts and some former politicians who prepared an independent report on the complementarity of Europe. The Warsaw Reflection Group report will be made available for all participants in the Third Summit.

Moving on to the next issue, one of our priorities is strengthening the Council of Europe's core values and standards. That is why, following the parliamentary elections held in Moldova at the beginning of March, I decided to pay an official visit on 31 March to Chişinău in my capacity as Chair of the Committee of Ministers, to review the situation in the country and co-operation with the Council of Europe. I talked to Moldova's highest political leaders. We discussed certain areas where progress is still expected from Moldova in terms of Council of Europe standards, particularly regarding media independence and pluralism, the independence of the judiciary, anti-corruption efforts and local democracy. A number of issues concerning the situation in the Transnistrian region of Moldova were also raised during the discussions. During the talks four indispensable requirements for solving the crisis were underlined: respect for sovereignty, independence and territorial integrity of the Republic of Moldova on one hand, and a special status for the Transnistrian region as an integral part of Moldova on the other.

This topic has been followed for several months by the Committee of Ministers, especially the situation of the Moldovan schools in the region and the full execution of the judgment delivered in 2004 by the European Court of Human Rights in the case of Ilaşcu and others against Moldova and the Russian Federation.

The question of the future status of Transnistria was raised in my talks with the Moldovan authorities in light of the new security environment shaped by the political change that has taken place in Ukraine in recent months. Given the Tiraspol authorities' central role regarding these issues, I also met them during the visit. The so-called "Transnistrian leaders" confirmed their readiness for further discussions about any new proposals of conflict solution with Chişinău. They declared their willingness to co-operate with any international organisation, including the Council of Europe Venice Commission. They demonstrated some flexibility by declaring possible inspections in factories and border monitoring by international observers. They also admitted that total independence is neither realistic nor politically reasonable. I think that the visit was promising in that respect. It seems to me that the new Ukrainian leadership can play, and in fact is already playing, a significant role in the search for a durable political solution to the conflict.

With your permission, I would like to add that three days ago at the end of the GUUAM – Georgia, Ukraine, Uzbekistan, Azerbaijan, and Moldova – meeting in Chişinău, the Ukrainians offered a very specific and concrete plan on how to resolve the conflict in Moldova. It seems to me that accepting such an approach would open up a very promising perspective for a durable solution.

From the very beginning, the Polish chairmanship was involved very deeply in the process of democratic change, or, to be more precise, in the process of conflict prevention in Ukraine. As you all know, President Aleksander Kwaśniewski initiated the round-table talks which resulted eventually in the political compromise. The Committee of Ministers has continued to pay close attention since then to the measures announced by the new Ukrainian authorities with a view to promoting the functioning of democratic institutions and the rule of law in the country. Following the address made to the Parliamentary Assembly by the new President of Ukraine on 25 January 2005, in which he mentioned certain areas where Council of Europe assistance would be welcome, the Committee of Ministers' Rapporteur Group for Democratic Stability – GR-EDS – has followed the matter very carefully. It has taken note of the outcome of the tripartite meeting between the new Ukrainian authorities, the Council of Europe Secretariat and the European Commission held in Kyiv on 17 and 18 March 2005 to review implementation of the current Council of Europe/European Commission Joint Programme for Ukraine covering the period 2004-2005 and to lay the foundations for a new framework for enhanced co-operation with Ukraine.

Ladies and gentlemen, let me use this opportunity to sum up our chairmanship in the Committee of Ministers that will finish in May during the summit. As I mentioned before, strengthening Europe's unity in the historically new political situation on the continent within the context of the ongoing process of enlargement and transformation of the European Union is the main priority that we intended to implement during our presidency.

That was not the only goal that we chose for these six months. We set up four other priorities, namely: strengthening human rights; promoting the dialogue between cultures as a precondition for tolerance and the resolution of conflicts; developing local democracy and trans-border co-operation; and overcoming the lines of division as the legacy of the past in Europe. Those are all needed to ensure conditions for developing a united Europe sharing core values.

Strengthening human rights is an issue of crucial importance for member states. In that context, a number of initiatives were announced with the aim of reinforcing the efficiency of the system of the European Convention on Human Rights, raising awareness of questions of law, and generally developing and consolidating the norms relevant to human rights. One of the meetings held today in Strasbourg is a significant event in this field; I refer to the seminar on effective remedies against the excessive length of judicial proceedings.

We also declare our strong commitment to oppose the threat of terrorism. That was one of the main topics of the third high-level multilateral meeting of the ministries of the interior organised in Warsaw on 17 and 18 March. At the meeting a resolution was adopted which stated support for the strengthening of the role of the Council of Europe in the prevention and control of terrorism, organised and other forms of serious crimes through standard-setting, monitoring and technical co-operation. It gave impetus to the early signature and ratification of the new Council of Europe conventions: the draft convention on the prevention of terrorism and the draft convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism.

Another question raised within the Council of Europe that is of special interest for the Polish chairmanship is related to social issues. In order to draw more attention to some specific issues in that respect, we organised seminars about, *inter alia*, non-governmental organisations in the civic society and health safety in Europe.

Co-operation in the sphere of culture and education plays a special role in strengthening the European identity. That is the reason for our third priority: enhancement of intercultural dialogue. That is an indispensable condition for combating intolerance, signs of xenophobia or racism. The conference held in Wrocław on 10 December 2004 on the occasion of the fiftieth anniversary of the European Cultural Convention was an excellent opportunity to review the achievements in that area. I am confident that the declaration adopted at the conference reflects our views and expectations connected with the convention.

The fourth priority – development of local democracy and trans-border co-operation – is of very special importance for Poland. We should all be aware that effective trans-border co-operation and developed local democracy are the main factors strengthening European unity based on democracy, human rights and the rule of law at the lowest – local – level. Poland has gathered a rich experience in this field that can be shared with other partners, especially with the ongoing process of political transformation.

In that context, we organised the ministerial conference on the occasion of the twenty-fifth anniversary of the European Outline Convention on the Trans-frontier Co-operation of Authorities and Territorial Communities, known as the Madrid Convention. It provided a great opportunity to exchange experiences with other partners and propose some interesting solutions, including looking for new legal forms of co-operation, developing good practices in the central-east European countries, and strengthening EU – Council of Europe co-operation in this area.

Overcoming the difficult legacy of the past is a significant challenge facing the nations of Europe. If we are to build a united Europe – a Europe without division lines, capable of dialogue between cultures – we must tone down the disputes rooted in the past. I am deeply convinced that a thorough and sincere discussion within the Council of Europe is the right approach. It is the only way to achieve a compromise and reconciliation.

Poland will support the Council's educational programmes designed to facilitate a joint, objective perception of history. Within the framework of the Polish chairmanship, a seminar of European education ministers on the theme of "Teaching remembrance through cultural heritage" will be held in Cracow at the beginning of May.

"*Historia magistra vitae est*" – we must remember that history should be based on true and honest reflection of facts. We have only one history in Europe. There are many divergent interpretations of the past, but we have to be united in our joint efforts to create a future based on the common heritage.

Thank you for your attention. I am now ready to answer all questions raised by the Parliamentary Assembly.

THE PRESIDENT. – Thank you, Mr Rotfeld. We now come to parliamentary questions for oral answer. I remind the Assembly that the Minister will answer questions only from those members who are present.

Fifteen questions have been tabled. They are contained in Document 10516 and will be taken in the order in which they have been published.

Since these questions have been published, I will not call the member concerned to ask them from the floor. Instead, I will ask the Minister to reply to each written question. Then I will allow one supplementary question from the member who tabled the question in not more than thirty seconds. Further supplementary questions will be allowed only at the end and only if time permits.

The first question is No. 1 from Mr Ali Huseynov, on Nagorno-Karabakh:

"*Question No. 1:*

Mr Ali Huseynov,

Noting that, at the initiative of the Republic of Azerbaijan and within the framework of review of the item on 'The situation in the occupied territories' at the 59th session of the General Assembly of the United Nations, the Mission of the Minsk Group of the Organization for Security and Co-operation in Europe visited the territories of Azerbaijan occupied by Armenia with a fact-finding purpose during the period from 30 January to 5 February 2005;

Further noting that this was the first mission of this nature since the moment of the occupation of the Azerbaijan territories and adoption by the Security Council of the UN of the relevant resolutions on the Armenia-Azerbaijan conflict, and that following the visit, the Minsk Group revealed the process of the transfer of population in the occupied territories and confirmed Azerbaijan's concerns on this matter;

Recalling that the Mission found out that more than 17 000 persons had been transferred to the occupied Azerbaijani territories, and that in this regard the Co-Chairs of the OSCE Minsk Group specifically indicated that the 'prolonged continuation of this situation could lead to a *fait accompli* that would seriously complicate the peace process' and 'any further settlement of the occupied territories should be discouraged';

Considering that, as an aggressor, Armenia, in compliance with the international practice, bears full responsibility for all actions taking place on the occupied territories, including the transfer of the Armenians into the territories where they never lived before,

To ask the Chairman of the Committee of Ministers,

If there has been any reaction by the Committee of Ministers with regard to the alarming report of the OSCE fact-finding Mission in the light of the Armenian commitment on the peaceful solution of the Nagorno-Karabakh conflict.”

Mr Rotfeld, would you like to reply?

Mr ROTFELD. – Last January, my deputy Jan Truszczyński replied to a previous question asked by Mr Huseynov about the Nagorno-Karabakh conflict. I have little to add.

The persistent lack of progress in the search for a solution to this conflict by both parties is for the Committee of Ministers, as for the Minsk Group of the OSCE, a matter of deep concern. The continuation of the existing situation jeopardises peace, stability and prosperity in the southern Caucasus and is in the interest of none of the parties. It can indeed only complicate the settlement of this issue.

It is therefore essential that the authorities of both countries make full use of the lines of communication that they have established between them, through, for example, the so-called Prague process, in order to enter into a true dialogue and make rapid progress in the search for a solution to the conflict.

Although the Council of Europe does not have a mandate to act as a mediator in this conflict, the Committee of Ministers, and the Polish chair in particular, are willing to provide any assistance that could facilitate reaching this objective. During the Third Summit in Warsaw, Poland will try to organise a facilitating route and the possibility of a meeting between the two presidents. We will do our best to try to find a way towards reconciliation. After the death of Pope John Paul II, we in Poland have already achieved a lot in the spirit of reconciliation. That experience could be shared with the presidents of Azerbaijan and Armenia.

THE PRESIDENT. – Thank you, Mr Rotfeld. Would you, Mr Huseynov, like to ask a supplementary question?

Mr Ali HUSEYNOV (*Azerbaijan*). – Would not it be appropriate for the Committee of Ministers to make a special declaration on this matter and urge Armenia to stop such illegal actions?

THE PRESIDENT. – Thank you. Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – That has to be a common decision; it is not up to the Chairman of the Committee of Ministers. Such a decision must be based on consensus.

THE PRESIDENT. – The next question is No. 2 by Mr Iwiński, on the prospects for the Warsaw Summit:

“*Question No. 2:*

Mr Iwiński,

To ask the Chairman of the Committee of Ministers,

What he thinks about the possibility of adopting three new Council of Europe conventions during the Warsaw Summit.”

Mr Rotfeld, would you like to reply?

Mr ROTFELD. – This is a question which has given rise to considerable discussion in the Committee of Ministers in the last few weeks. All I can tell you is that, at this stage, the parties concerned are actively negotiating, with a view to reaching agreement on the three texts as soon as possible.

As I said in my introductory speech, for several years, the Council of Europe has been concentrating on the subjects covered by these instruments. Action against terrorism, organised crime and trafficking in human beings, which has recently increased, remains one of its central concerns.

In these circumstances, I think it essential that we come out strongly against those evils at the Third Summit by adopting these three conventions. This would confirm the Council of Europe's mission as an organisation capable of effectively meeting the challenges and dangers of today's world.

I therefore very much hope that we may indeed be able to open these texts for signature at the Third Council of Europe Summit in Warsaw.

THE PRESIDENT. – Thank you, Mr Rotfeld. Would you, Mr Iwiński, like to ask a supplementary question?

Mr IWIŃSKI (*Poland*). – I express my gratitude to the Minister for his answer and I understand that he said, in a diplomatic way, that there are still chances for the conventions to be adopted. Do you share the opinion that much depends on whether the Warsaw Summit is considered to be a success? The conventions will play a crucial role along with the other 200 conventions that we have adopted in the history of our Organisation.

THE PRESIDENT. – Thank you. Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – I share your view, Mr Iwiński.

THE PRESIDENT. – The next question is No. 3 from Mr Slutsky, on Poland's foreign policy and the difference between the old and new Europe.

“Question No. 3:

Mr Slutsky,

To ask the Chairman of the Committee of Ministers,

Whether the increase in foreign policy activity by Poland, which wishes to become leader of the so-called New Europe, could result in differences between the Old and the New Europe.”

Mr Rotfeld, would you like to reply?

Mr ROTFELD. – The question is very specific because it is based on comments in the press. There are two elements to it. First, there is the question of whether there is an old and a new Europe. The United States Defense Secretary, Donald Rumsfeld, made an unfortunate comment at a meeting. Since then, his phrase has been repeated by many. In my view, many so-called new democracies are much older than the so-called old democracies. In that sense, I do not accept that there is a division.

The second element is related to the concept that Poland pretends to be a leader in the region. I do not share that view – Poland does not have such an ambition. Leaders, not only in Poland but in every country in the world, should be accepted by those whom they propose to lead. In other words, there is a need for a policy that is sufficiently attractive to be the centre of gravity in order to have followers. It is not my task or my aim to say to what extent Polish foreign and security policy is sufficiently attractive to gain followers. We have many close friends and good partners in the region but we do not intend to pretend to be a leader.

THE PRESIDENT. – Thank you. Mr Slutsky, would you like to ask a supplementary question?

Mr SLUTSKY (*Russian Federation*) thanked the Minister and said that he was concerned that Poland's foreign policy echoed that of America. He cited Iraq and the transfer of American military bases from Germany to Poland. He expressed himself satisfied with the Minister's previous answer.

THE PRESIDENT. – Thank you. Mr Rotfeld, would you like to reply?

Mr ROTFELD wished to respond to that comment by indicating that it was a line taken by some Russian commentators which was not consistent with reality.

THE PRESIDENT. – Thank you. The next question is No. 4 from Mr Ateş, on the Warsaw Summit.

“Question No. 4:

Mr Ateş,

To ask the Chairman of the Committee of Ministers,

Why the substantial contribution the Assembly made by its Recommendation 1693 (2005) has, so far, received no formal reply from the Committee of Ministers although the date of the Third Summit is now so close; to what extent the texts, namely the Warsaw Declaration and the Action Plan, under preparation in the Committee of Ministers, cover the main preoccupations of the Assembly; and how will the proposal of the Assembly, as regards the Council of Europe's future role in the functioning and promotion of democracy, be implemented in concrete terms.”

Mr Rotfeld, would you like to reply?

Mr ROTFELD. – I would like to thank Mr Ateş for his question. I know this is a subject of great concern for the Assembly as a whole and President van der Linden has sent me a letter to this effect. I have already broached this subject during my speech earlier, but I would like to complement my statement by some elements regarding the proposals contained in Recommendation 1693.

This recommendation is a very rich and comprehensive text and has been included in the file which delegations in the Committee of Ministers are examining in preparation for the summit. In that context, close consideration is being given to the various proposals made by the Parliamentary Assembly. I cannot confirm that all the Assembly's proposals have been included in the text, but I think I can safely say that the majority of the proposals made have been taken into account in one way or another by the Committee of Ministers.

As the honourable parliamentarian knows, we are currently preparing a declaration and an action plan, both of which are still under negotiation. This is the reason why I could not, unfortunately, grant the request by the Parliamentary Assembly to distribute these documents. Permit me, however, to give you a broad outline of their content.

Both texts endeavour to provide the Organisation with a clear mandate for the coming years. They stress European unity as promoted by the Council of Europe and based on the common values which our Organisation has embodied from the day it was founded – democracy, human rights, the rule of law. They emphasise the role of the Council of Europe in the current European architecture, particularly in relation to the European Union. They stress that the core mission of the Council of Europe is promoting human rights, democracy and the rule of law, and underline the point that social cohesion, education and culture are enabling factors. They underline the fundamental role of the European Convention on Human Rights and the necessity of ensuring the long-term effectiveness of its control mechanism – in particular, the European Court of Human Rights. That includes, *inter alia*, the early ratification of Protocol No. 14, and the implementation of measures at national level as well as the possible setting up of a panel of eminent personalities, which has also been proposed by the Parliamentary Assembly.

The Parliamentary Assembly's proposal to strengthen the Council of Europe's work on democracy is also being considered seriously, and discussions are continuing on the establishment of a forum on the future of democracy. The texts also underline the necessity of implementing Council of Europe standards and ensure compliance with commitments made by member states. They insist on the reinforcement of the Organisation's various human rights institutions and mechanisms. They emphasise Council of Europe action in its traditional fields of activities and in fighting new challenges.

It goes without saying that as soon as we have agreement, we will inform the Assembly and transmit the draft texts. That will be done before the summit takes place, as the President of the Parliamentary Assembly has been invited not only to participate in the summit, but to deliver a message on behalf of the Assembly to the heads of state and government.

THE PRESIDENT. – Thank you. Mr Ateş, would you like to ask a supplementary question?

Mr ATEŞ (*Turkey*). – I congratulate you and your government on having contributed with determination and imagination to the preparation of the summit. The Political Affairs Committee has and will continue to give its support to the summit, which we hope will be a success. Will the Minister give his support to a post-summit dialogue with the Assembly on the implementation of the decisions? Hopefully, such dialogue will be organised more effectively than that during the run-up to the summit.

THE PRESIDENT. – Thank you. Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – That is an interesting point.

THE PRESIDENT. – We now come to question No. 5, from Mr McNamara.

"Question No. 5:

Mr McNamara,

To ask the Chairman of the Committee of Ministers,

Whether the Committee of Ministers is satisfied that the Inquiries Act 2005 of the United Kingdom satisfies the criteria of the Court of Human Rights for the proper, swift, independent and open inquiry into

deaths at the hands of agents of the state with or without collusion with paramilitary terrorist organisations and state forces.”

Mr Rotfeld, would you like to reply?

Mr ROTFELD. – The Committee of Ministers is currently examining the execution of a number of judgments of the European Court of Human Rights concerning the actions of United Kingdom security forces in Northern Ireland, in which procedural violations of Article 2 were found.

The Inquiries Act 2005 is one of the many measures being examined in this context. The committee understands that that Act is not intended to form the basis of most investigations into deaths at the hands of state agents. Indeed, recent UK case law makes it clear that unless otherwise instructed, coroners should assume that their inquest is to provide the investigation that fulfils the requirements of Article 2 of the European Convention on Human Rights.

However, the United Kingdom authorities have indicated that the Inquiries Act 2005 is intended to form the basis of the individual measures to be taken in the Finucane case, in which allegations of collusion were made. The committee will pay close attention to the capacity of such an inquiry to fulfil the requirements of Article 2. Particular importance is attached, in accordance with the court’s case-law, to the independence of such an inquiry, its openness to public scrutiny and the possibilities for the next-of-kin of the deceased to participate in the inquiry to the extent necessary to protect their interests under Article 2.

THE PRESIDENT. – Thank you. Mr McNamara, would you like to ask a supplementary question?

Mr McNAMARA (*United Kingdom*). – I thank the Minister for the fine concert we had at lunch time from the Polish choir – I particularly enjoyed its fine rendition of the European anthem.

I wish that I had as much confidence in Her Majesty’s Government’s inquiry into the death of Pat Finucane as the committee. I trust that the committee will maintain a constant examination of the inquiry into that death, because the 2005 Act was introduced to prevent just such an inquiry.

THE PRESIDENT. – Thank you. Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – Those comments will be taken into consideration and the case will be afforded due respect.

THE PRESIDENT. – We now come to question No. 6, from Mr Toshev.

“*Question No. 6:*

Mr Toshev,

To ask the Chairman of the Committee of Ministers,

How the Council of Europe addresses the issue of the respect for human rights of the Bulgarian national minority in Serbia and Montenegro – especially concerning the insufficient education in mother tongue and worshipping at churches in the Bulgarian language.”

Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – The Committee of Ministers has actively examined the situation of Bulgarians and other national minorities in Serbia and Montenegro, in particular in the context of monitoring the Framework Convention for Protection of National Minorities.

The Committee of Ministers is assisted in this task by the Advisory Committee on the Framework Convention, which has met the Council of the Bulgarian national minority and included in its first opinion on Serbia and Montenegro several comments of relevance to the Bulgarian national minority and the protection of its language and culture.

The Committee of Ministers’ first resolution on the implementation of the Framework Convention in Serbia and Montenegro, Resolution ResCMN(2004)12, adopted in November 2004, generally reflects these findings, and calls for further dialogue between the authorities and the advisory committee.

THE PRESIDENT. – Thank you. Mr Toshev, would you like to ask a supplementary question?

Mr TOSHEV (*Bulgaria*). – I did not get an answer on my question about education in the mother tongue and worshipping in the Bulgarian language in areas in which Bulgarians live in Serbia. Do you think that the Committee of Ministers should issue a single report on the Bulgarian national minority in Serbia and Montenegro? Will you make a commitment in that respect?

THE PRESIDENT. – Thank you. Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – I do not have much to add to my response. The Committee of Ministers wants the authorities in Serbia and Montenegro to make efforts to protect the languages and cultures of national minorities. We invite them to continue the dialogue and progress with the Advisory Committee on the Framework Convention and to keep it informed of measures taken in response to the conclusions and recommendations contained in the resolution. I shall ensure that the points made by the distinguished parliamentarians concerned are brought to the attention of the advisory committee.

THE PRESIDENT. – The next question is No. 8, from Mr Zingeris.

“Question No. 8:

Mr Zingeris,

To ask the Chairman of the Committee of Ministers,

Noting the success of the ongoing series of Council of Europe art exhibitions, which is currently illustrated by the display of posters in the exhibition outside our debating chamber to commemorate the 50th anniversary of the European Cultural Convention,

Whether he agrees that it would be interesting to develop art exhibitions still further by means of travelling exhibitions of major national works of art, organised with Council of Europe and EU support, as a means of extending public access to Europe's common cultural heritage, and whether this idea could be launched at the Third Summit.”

Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – I thank the distinguished parliamentarian for this question. I am glad to announce that we do not need to wait for the Third Summit to launch the initiative he mentions. The reason is that the twenty-eighth Council of Europe art exhibition on the work of Leonardo da Vinci will start what is proposed.

For the first time in the history of Council of Europe art exhibitions, the Leonardo exhibition will take place in several member states at the same time. It will be organised around paintings, scientific works and writings placed in national museums. Thus, the idea is to encourage cultural travelling within Europe.

In addition, two travelling exhibitions, consisting of high-quality reproductions of Leonardo's paintings, will visit a large number of European museums, which would not otherwise have the possibility to display Leonardo's works. At the same time, an Internet site will be set up so as to build a virtual museum accessible to a large public.

European citizens will not only be travelling to meet art, but art itself will be travelling across Europe to meet millions of Europeans.

THE PRESIDENT. – Thank you. Would you, Mr Zingeris, like to ask a supplementary question?

Mr ZINGERIS (*Lithuania*). – Thank you, dear Minister. I want to thank you very much for Polish politics, which is strengthening the ideals of the Council of Europe in our region. Will you help to enlarge the part of the Warsaw Declaration on culture and cultural exchanges, and also democratise the cultural exchange between countries that have and do not have such rich possessions?

THE PRESIDENT. – Thank you. Would you, Mr Rotfeld, like to reply to that question?

Mr ROTFELD. – As time is limited, I shall say only that that subject is under discussion during the preparations for the different cultural events. Definitely, your suggestion will be taken under consideration. Thank you.

THE PRESIDENT. – The next question is No. 9, from Mr Cubreacov.

"Question No. 9:

Mr Cubreacov,

To ask the Chairman of the Committee of Ministers,

What practical measures the Committee of Ministers intends taking to oblige the Russian Federation to honour its commitment to our organisation and withdraw in an orderly and unconditional manner its troops and military arsenal which are still stationed illegally on Moldovan territory."

Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – When the Russian Federation joined the Council of Europe in 1996, it undertook "to ratify, within six months from the time of accession, the agreement of 21 October 1994 between the Russian and Moldovan Governments, and to continue the withdrawal of the 14th Army and its equipment from the territory of Moldova within a time-limit of three years from the date of signature of the agreement". Like the Assembly, the Committee of Ministers welcomed this commitment.

Two years ago, a start was made with the withdrawal of Russian troops and military equipment. The process has not yet been completed.

The Committee of Ministers is following closely the situation in the Transnistrian region of the Republic of Moldova. I spoke about that in my introductory speech. I myself had an opportunity to visit the region on 31 March. I trust the commitment entered into by the Russian Federation will be fully honoured in the future.

THE PRESIDENT. – Thank you. Would you, Mr Cubreacov, like to ask a supplementary question?

Mr CUBREACOV (*Moldova*) asked what were the consequences for human rights of the Russian occupation of Moldova and whether, on his last visit to Chişinău, the Minister had spoken to the authorities on how those rights could be improved?

THE PRESIDENT. – Thank you. Would you, Mr Rotfeld, like to reply to that question?

Mr ROTFELD. – I have a more complex view on this subject for these reasons. First, I would avoid referring to the Russian presence in the Transnistrian region as an occupation. It is a legacy of the past; it happened. As you may know, I spent some time on the Transnistrian conflict, being appointed in 1992-93 as personal representative of the Chairman-in-Office of the Organization for Security and Co-operation in Europe to find a solution to this conflict. A lot is being done. Sometimes, too-strong words are not facilitating the search for a solution. It seems to me that what happened in the last few days in the context of the new initiative could open the way to resolving the conflict and the withdrawal of the Russian troops in a time that will be agreed on by the parties.

THE PRESIDENT. – The next question is No. 10, from Mr Legendre.

"Question No. 10:

Mr Legendre,

To ask the Chairman of the Committee of Ministers,

Recalling Mr O'Hara's 2004 information report on protection of the cultural heritage in Kosovo (Doc. 10127) and welcoming the more recent co-operation between the major governmental organisations with regard to protection and preservation of this heritage,

Whether real progress is finally likely to be made towards the restoration of damaged Orthodox property in the area."

Mr Rotfeld, would you like to reply to that question?

Mr ROTFELD. – The Implementing Committee for the Restoration of Religious Monuments was suspended after the withdrawal of the Orthodox Church in autumn 2004. It is now operational again. The Holy Synod has signed a revised memorandum of understanding prepared by the United Nations Mission in Kosovo. Internal debates within the Orthodox Church are still going on. Accordingly, it is premature to resume concrete restoration works at this stage.

The Council of Europe has appointed the Chairperson of the Implementing Committee. Moreover, it has helped to create ad hoc management mechanisms within the provisional administrative system in Kosovo. These mechanisms will allow for the use and control of over €6 million allocated by various international bodies. That will be used for the urgent repairs to facilitate long-term restoration programmes.

The first step in this direction is a joint programme between the Council of Europe and the European Commission. It concentrates on the pre-feasibility study, carried out by Serbian experts, on the rehabilitation of the main Orthodox monuments. We hope that the results of the study will be available when the internal debate within the Orthodox Church has come to a conclusion.

THE PRESIDENT. – Thank you. Mr Legendre, would you like to ask a supplementary question? That is not the case.

We must now conclude the questions to Mr Rotfeld. On behalf of the Assembly, I thank him most warmly for presenting the communication and, in particular, for the very detailed and extensive speech and answers to the questions. I also thank him for what he has done up to now to make the summit a success. I hope you keep succeeding as you have done in the last month. There are still two weeks to go. It is a pity that the Assembly does not receive the written information, but I must thank you very much for the detailed answers you have given to questions here. You know that Europe is a great heart, and in a great heart there are many central points. Warsaw is one of the centres of Europe, and we shall meet each other at the summit on 16 and 17 May. Thank you very much.

Mr ROTFELD. – Thank you. I would like to confirm our hope and expectation that we will be able to continue our discussion at the summit in Warsaw.

THE PRESIDENT. – The written replies to the questions that Mr Rotfeld did not have time to answer will be published in an addendum to the verbatim report.

4. Current affairs debate

THE PRESIDENT. – The next item of business this afternoon is a current affairs debate on the European Constitutional Treaty.

Under Rule 52.4, the debate is limited to one and a half hours and will therefore end at 5.30 p.m. Speaking time is limited to five minutes for all members except the first speaker, who is allowed ten minutes.

In the debate, I call first Mr Einarrson.

Mr EINARRSON (*Sweden*). – The person to thank – or to blame – for this current affairs debate is our President, Mr van der Linden. He is not able to participate, but I hope he will forgive me for quoting him. Addressing the Foreign Affairs Committee of the French Parliament, Mr van der Linden said: “A French ‘yes’ to the draft European constitution is also a ‘yes’ for a Europe based on democracy and human rights.”

That provoked me to make the following counter-statement: “Van der Linden implies that those who vote ‘no’ to the EU constitution are opposing democracy and human rights. This is an insult to millions of French citizens. The major part of the resistance to the draft constitution, in France, as in most EU member countries, is an expression of left-wing, humanist and democratic ideals.”

Now, press statements from the President of the Assembly or from group leaders are not the proper way to have a debate on this important issue, so my group and I took the initiative to ask for a current affairs debate on the European Constitutional Treaty, or, to use its official name, “a treaty to establish a constitution for Europe”.

Whether this is a constitution or not can be discussed. I shall nevertheless use that word to simplify and to save speaking time. It is absolutely clear, however, that it is not a constitution for Europe; it is a constitution for the EU.

The constitution is currently being debated with varying degrees of intensity in all EU member states, especially countries where the decision will be made by the people, such as France, but also member states where parliament will decide such as my own country, Sweden. It is high time that we provided a parliamentary forum in which representatives from all European countries can debate an issue of common European interest. In this debate, our intention is to demonstrate that the debate on the EU constitution is not one between those who are “against Europe” and those who are “for Europe”. Even so,

there are very different opinions about the EU Constitutional Treaty even within political groups, including my own.

It is true that in some EU countries the resistance to the Constitutional Treaty is to some extent right wing and nationalistic. Overall, however, the picture is rather different. Overwhelmingly, broad popular resistance to the EU constitution and sometimes to the EU is left wing or centre left, and is based on support for large public-sector welfare systems, labour rights and political democracy. Such resistance does not regard freedom as equal to the freedom of capital movement and does not think that free markets are the answer to every question. It is in favour of international, including European, co-operation, and so it says no to the allocation of even more supranational power to the EU institutions.

What does the Constitutional Treaty really mean? More important than the individual paragraphs is their overall direction. We should think less about where the European Union is than where it is going. Clearly, the Constitutional Treaty is another step, and we can discuss whether that step is a large or a small one. I would say that it is a substantial step towards a federal state in which the EU leaves the international co-operation phase and enters a supranational state-building phase.

Jonas Sjöstedt, a member of the European Parliament, says in his new booklet, "The new EU constitution – centralised rule and market liberalism": "A number of changes in the constitution make for a greater degree of federalism in the Union. This is the consequence of transferring more power to the supranational institutions, the Commission, the Parliament and the Court of Justice. It follows that their power to influence and direct policies inside member states increases. At the same time, the number of areas are added to where decisions in the European Council of Ministers will be taken with qualified majority. The policy areas where member states retain the right of veto are significantly reduced. Majority decisions and joint decision making with the Parliament will now constitute the overarching principle and will consequently be the standard way of reaching decisions in the EU. The right of veto is limited to a few areas, mainly those concerning fiscal policy, foreign affairs and defence, including some sections of legal and social policy."

One might consider that a good or bad thing, but one cannot base the debate on a denial of what the constitution really means. Why are millions of socialist, social democratic, liberal and conservative voters reluctant about the constitution? It is not because they do not like "Europe". I think that one of the main reasons for their reluctance is their concern about democracy. When one delegates democratic power upwards to the supranational level something happens along the way. If one arrives at Brussels airport and goes to pick up one's luggage, one finds that power has come through in good shape but that democracy is missing. One can go to the lost luggage counter and try to describe the democracy one has lost but one should not have strong expectations of ever getting it back.

It is not just about the form of the constitution but about its political content. The so-called constitution is peculiar, because it describes not just how and by whom decisions are to be made but also what kind of decisions can be made. One would be perfectly right if one thought that it is not primarily left-wing policies that are prescribed by the constitution. The deregulation of markets, the freedom of capital and the so-called open market economy are laid down as holy dogma. The slogan "Another world is possible" is promptly refuted by the constitution. Another world would probably be deemed unconstitutional by the Court in Luxembourg.

The constitution is even more explicit about defence policies: "The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead" – I urge colleagues to note the wording – "to a common defence, when the European Council, acting unanimously, so decides." The constitution's answer to military non-alignment, which remains the foundation of some member states' security policy, is "Forget it". Article 41.7 clearly states: "If a member state is the victim of armed aggression on its territory, the other member states shall have towards it an obligation of aid and assistance by all means in their power".

I shall conclude with a final example – the so-called passarelles, which say that in areas where the right of veto remains, ministers can, by unanimous decision, change the method of decision to qualified majority. A national parliament can inhibit the use of the passarelles if it makes an objection within six months. As a result, an EU institution is given the power to change the substance of the constitution without proper process and without amendments to the treaty being ratified by national parliaments. The treaty is no longer the sole property of member states and their parliaments. An EU body is given what is sometimes called competence competence. Governments can thereby avoid referenda even if national constitutions prescribe them. The emergency brake given to national parliaments is, constitutionally speaking, totally insufficient.

A couple of weeks from now, French citizens will say yes or no to the EU constitution, and others will hold referenda in the months to come unless the ratification process is stopped. In other member countries, like my own, Sweden, we are still campaigning to have a referendum. So far, the parties in favour of the constitution have refused to let the people decide. It is not difficult to see the reason why. Regardless of the way in which the decisions are made and regardless of the outcome, two things must be said. First, the constitution is not about being for or against Europe or European values. Secondly, there will still be a need for all-European co-operation, based on democracy, human rights and the rule of law. Whether there is an EU constitution or not, the Council of Europe is not the past, but the future of the European journey.

THE PRESIDENT. – Thank you, Mr Einarsson. This is one of those rare moments when I regret being in the Chair and being unable to contribute to our debate. This is not the first time we have had a discussion about the constitution, but I am grateful for this initiative. It is worthwhile having these discussions, especially in view of the debates between politicians and citizens in various member states which are important for the Council of Europe as a whole. I call Mr Lund to speak on behalf of the Group of the Unified European Left.

Mr LUND (*Denmark*). – I must start by saying that some parties in our group would not recommend a no vote for the European Constitutional Treaty, but we all agree that no party is recommending such a vote because it is opposed to human rights or democracy. I am happy to be here to present the three main arguments for voting no as seen by some parties in our group.

First, the treaty will lead to more privatisation and less welfare; secondly, it will bring about more militarisation; thirdly, it will weaken democracy. It will be difficult for us to explain the arguments since the articles are complicated and aimed at camouflaging their liberalistic contents. In short, more decisions will be removed from those assemblies where people have the most influence to closed meetings for lobbyists from companies, bureaucrats and ministers in Brussels. That means, at least for anyone who supports the principles on which the Council of Europe rests, that the citizen's chance of exercising democratic influence will be weakened.

The preamble to the constitution establishes that the European Union must provide guarantees for the forces of the free market. The EU will now show more consideration for market sales and profits and pay less attention to the needs of citizens. The European Commission will gain from the constitution the exclusive right to make proposals on even larger areas; its interest is obviously to force through a liberalistic agenda.

As I said, the constitution will force each country to re-arm its military. Part 1, paragraph 4 states that "member states are committed to improve their military capacity". In common language that means re-arming.

The constitution will not only have an impact on Europeans; the Commission will, as a principal rule, control all negotiations concerning external trade policy in the EU. We already know that the Commission gives rough treatment to developing countries. It tries to force them to privatise their water supply with the sole aim of securing large orders for European water companies. The "no" parties in our group believe that the constitution will have a major negative impact on poor people throughout the world if the treaty is approved. Moreover, the EU will in time be able to negotiate trade policy on behalf of all member states in areas such as education and health. In the long term that will open the barn door to multinational corporations to profit from education and health.

Even though we have both "yes" and "no" parties in our group, everyone in our group is in favour of more international co-operation. The "no" parties in our group will vote no not because we want to have a cosy time in our own little nation state but because the constitution will make it more difficult to create a social, sustainable and democratic Europe and because it works against attempts to have solidarity and equal co-operation with the rest of the world.

We believe that if we can achieve a "no" to the constitution, it will be important afterwards to discuss other ways of co-operating internationally within Europe – ways that people like rather than ones that they dislike. Our group sees that as a very important task, and we want very much to discuss how we can strengthen the role of the Council of Europe at the expense of the EU acquiring more powers. The future lies not in giving more power to the European Union but in giving more financial and political power to the Council of Europe.

THE PRESIDENT. – Thank you, Mr Lund. I call Mr Elo, on behalf of the Socialist Group.

Mr ELO (*Finland*). – It is relevant to ask ourselves this: why do we need a constitutional treaty, if we need one at all? To me, the answer is obvious. The enlargement of the European Union from fifteen to twenty-five member countries, and in 2007 to twenty-seven member countries, means that we must have a simpler, more comprehensible version of the existing treaties. To contradict Mr Einarsson, I think that the Constitutional Treaty does mean simplifying the existing treaties.

There are different views about the significance of the Constitutional Treaty. Personally, I am in favour of it, but there is no denying that there are different views in the European social democratic movement. We can see that here in France, where about 50% of French socialists are in favour and 50% are against. We must ask ourselves why so many socialists hesitate on the question or are opposed to the treaty. The answer may – I emphasise the word “may” – be found in *Le Figaro*, in an article by the former French Minister for European Affairs, Pierre Moscovici. He accuses, I think quite correctly, the President of the European Commission, Mr Barroso, of forgetting the European social model. The introduction of the service directive, known as the Bolkestein directive, was a trigger that liberated many of the anti-European forces. In the same way, by concentrating in the Lisbon strategy merely on the liberalisation of the economy, Mr Barroso neglected such dimensions as the environment and the European social model. As Mr Moscovici says at the end of his article, “The European Union has no need of less regulation or more social cohesion.”

I wholeheartedly agree with Mr Moscovici when he says “Europe does not belong to anyone. It is not the property of one ideology or one camp. The European model constitutes this sensitive balance, unique in the world, between economic efficacy and social justice, between liberty and solidarity, that has been defined so exactly by Jacques Delors”.

The European Constitutional Treaty is also very important for the future of the Council of Europe. The new treaty makes it possible for the Council of Europe to accede to the European Convention on Human Rights; indeed it commits it to doing so. On the other hand, the European Union is planning to set up the fundamental rights agency about which we have spoken so much.

Many of us in the Assembly are worried about the new situation. Yesterday, I put a question to the President of the European Union, Mr Juncker, about avoiding duplication in human rights mechanisms between the Council of Europe and the European Union, specifically with regard to the fundamental rights agency. We noticed that Mr Juncker could not, or did not want to, elaborate on that issue. However, the need to avoid duplication is of utmost importance to us.

I thank Mr Einarsson for his initiative in securing this debate.

THE PRESIDENT (Translation). – Thank you, Mr Elo. I call Mr Grignon of the Group of the European People's Party.

Mr GRIGNON (*France*) said that he was speaking on behalf of himself and other members of the European People's Party. Europe faced three challenges: globalisation, terrorism and environmental risk. Those could not be tackled by one country alone and France could not therefore reject the constitutional treaty. Europe and the whole world were affected by terrorism; there had been attacks in France as well as the disaster of 11 September in the United States. The constitutional treaty would go some way towards meeting such challenges and Europe could play a greater part once it had come into force. Action could be taken at both the community level and the national level and the role of foreign affairs ministers was crucial. Trade difficulties with countries such as China and the United States could be dealt with better by the European Union as a whole than by member states acting alone.

The treaty if passed would have an impact on the everyday lives of EU citizens. Its institutions would become more democratic, co-decision with the European Parliament would apply in 95% of cases, greater subsidiarity would mean that more decisions were taken at the lowest possible local level and European citizens would be able to take more direct action. The treaty would have an impact in the economic and social sphere in that it enshrined the right to trade union membership and the right to strike. It would enhance a strong European model based on a market economy and would have no negative impact. The development of Spain and Portugal since they joined the European Union had shown that this was possible. The treaty would also enhance European efforts to tackle the greenhouse effect.

For all those reasons he called on his fellow European People's Party members to support the constitutional treaty.

THE PRESIDENT (Translation). – Thank you, Mr Grignon. I call Mr Dupraz of the Liberal, Democratic and Reformers' Group.

Mr DUPRAZ (*Switzerland*) said that initially the Liberals were against the debate taking place. It was after all only one month before the referendums would take place in the Netherlands and France and a debate now could be seen as inappropriate interference. The member states of the European Union had long experience of political life through their involvement in the Council of Europe. They were all committed to democracy, the rule of law, the judiciary, and fundamental rights. He took the opposite view to some of the previous speakers. The European Union had fostered the longest period of peace and prosperity the continent had known and that applied to both its original members and the newer states.

He likened the process of European development to the construction of a medieval cathedral where stone after stone had been added to the building until a fine edifice had been completed. The constitutional treaty was only the latest stage in that process.

However, the treaty was primarily the concern of the European Union itself and not the Council of Europe. As a Swiss citizen he hesitated to give advice to the European Union, but he could urge the Council of Europe to make sure that if the treaty were not passed those countries who wished to join the Union would not be disadvantaged. The Council of Europe could offer a forum for the newer European countries to experience democracy before they joined the European Union. The treaty was something of a paper tiger and just as the European Airbus 380 had now taken off so the treaty itself should be passed.

THE PRESIDENT (Translation). – Thank you, Mr Dupraz. I call Mr Wilkinson.

Mr WILKINSON (*United Kingdom*). – I believe that all of us in this Chamber share the European ideal. However, the Treaty of European Union signed at Maastricht laid down the path whereby its signatories were, via economic and monetary union, to transform their relationship from a community of sovereign states into an “ever closer union”.

For me, an understanding of the Maastricht process was a Damascus road experience. I ask those who are still more moved by old ardour for the European ideal than by a maturer judgment of today's reality in Europe to read the EU constitution and decide whether its provisions are compatible with maintaining the liberties of their electors.

Of course, it lacks the inspiration of the lucid prose of the American Constitution, Alexander Hamilton, Adams and Thomas Jefferson. It is not a democratically inspired document. It is a technocratic document, the product of a Euro-elite that is isolated from public opinion and remote from the trials and tribulations of the everyday lives of Europe's citizens.

In successive elections to the European Parliament, even in the Spanish referendum, the abstentionists comprise the largest political group. What popular clamour is there among our electors for the constitution's provisions of an indirectly elected president of Europe, a European foreign minister, a European diplomatic corps and all the pomp and quasi-imperial appurtenances of a single European state? Our voters ask for jobs, good education and health services. It is not as if the Maastricht model has enhanced the accountability of our Euro-rulers or the prosperity of our peoples in the eurozone. Economic growth has been lower and unemployment higher in the eurozone than in the countries outside it. Harmonisation of policy based on the European social-economic model has diminished our continent's commercial competitiveness against the dynamic economies of Asia and America, as the failure of the Lisbon initiative shows.

Big, bureaucratic government, further removed from and less accountable to the people will gain a juridical personality if the constitutional treaty is passed. The extension of majority voting, the adoption of a common foreign and defence policy above the interests of the nation states, and the formal endorsement of the disastrous common agricultural and fisheries policies will make decision making even less responsive to the will of the voters of Europe.

Ten successive years of uncertified European Union accounts, countless scandals and malpractice, and evidence of maladministration by the Commission have led to a cynical apathy among the electorate. Through their national parliaments, they can get bad laws repealed. Through their national parliaments, they can get rid of ineffective ministers. What EU unsuccessful regulations and directives have been rescinded through popular democratic pressure? No wonder electors feel disfranchised, especially if referenda results on European issues are rerun, as happened in Denmark and Ireland.

In human affairs, governance is usually best through close and directly answerable contact between those entrusted with power and those whom they govern. If I had a choice between personal freedom and this hegemonistic constitutional construction of a quasi-imperial political ambition, I would always choose freedom. Political freedom is a tender plant, precious and in need of our protection. This is the body to protect it. For that reason, I ask all my friends and colleagues in the Assembly to read the

constitutional provisions and judge them fairly, impartially and objectively. When they do so, I am sure that they will conclude that the constitution would not enhance democracy but do the opposite.

THE PRESIDENT. – Thank you, Mr Wilkinson. I call Mr Severin.

Mr SEVERIN (*Romania*). – Needless to say, I strongly disagree with some of my colleagues. Although I acknowledge their right to express their views, I believe that I have the right to say that I do not share the view of the first two speakers or that of the previous speaker.

In a sense, the European Union has reached the limits of its early history. Globalisation dictates both the enlargement and the deepening of the European Union. That is precisely what the constitution is trying to achieve. One should understand that the EU could not simply remain a free market. One cannot conceive of long-term success for a common internal market without a common economic and tax policy, a common economic policy without some kind of common social policy, or an internal policy without an external common policy and a common defence and security policy.

The draft constitution does not solve all those problems but it brings the EU closer to its citizens and opens the way for social, economic and territorial cohesion of Europe based on the EU's capacity to do more than EU nation states can achieve separately for individual, collective, national and international security.

The draft constitution is not, and could not have been, the full expression of the vision. It is the result of negotiation and is therefore a compromise. However, it does not compromise the vision of a united political Europe, able to reconcile its history with its geography and play a global role.

One should add that this is not a Socialist, Christian Democrat, Liberal or Conservative constitution. It is the result of negotiation between all those ideological positions. One cannot say that the constitution is the product of the political will of governments – the opposite is true. At the convention meetings, parliamentarians, not representatives of governments, tried to promote a more audacious and visionary text, which was closer to popular expectation. Those who claim that by voting no the governments can be penalised are wrong. Saying no to the constitution is equal to saying no to all the progress achieved by the text, thus endorsing the position of the most anti-European governments.

If we do not like the way in which the EU is functioning today and its democratic deficit, the position obviously cannot be improved by rejecting the constitution. Even if the constitution is not perfect, it represents progress, which will bring us closer to our goals. I have heard people saying that the constitution will mean less welfare and more militarisation, less democracy and less freedom. Nothing could be further from the truth. Let me quote Jacques Delors: "Ils vous mentent" – they are lying to you.

It is not true that all those who oppose the constitution are against Europe. Some want more European integration than the constitution would provide. The unholy alliance between the Eurosceptics and the overambitious Euro-enthusiasts puts not only the European dream in jeopardy but every European nation, primarily those that vote against the constitution.

The future does not lie in a more intergovernmental approach but in a more communitarian approach, which means more cohesion, more subsidiarity and more solidarity. Therefore, let us ask all our European fellow citizens to say yes to this constitution.

THE PRESIDENT. – Thank you, Mr Severin. I call Ms Papadimitriou.

Ms PAPANIMITRIOU (*Greece*). – I hate to disagree with my beloved friend, Mr Wilkinson, especially because these are his last days in the Council of Europe. However, if we leave aside those for whom being against Europe as a union is ideology, if not theology, for the rest of the Europeans, the ratification of the Constitutional Treaty is a crucial way station on Europe's road to the fulfilment of its historic goals and aspirations. It will give the European Union a clear political identity, which is much needed, and the possibility of guaranteeing its current 480 million citizens – in future, the number of citizens will be much greater – democratic institutions that function more effectively. In that case, Europe will respond to more than the will of its individual governments.

The intergovernmental conference set three important and achievable goals after Nice and Laeken. The first is a common and more effective presence on the international scene. That can be achieved through the new common institutions that have been agreed, such as the minister of foreign affairs, and the new service that will support him in the implementation of his mission.

The second goal is strengthening the democratically elected organs of the EU, mainly the European Parliament, and the further institutionalisation of its relations with national parliaments. With the

empowerment of the European Parliament to elect the President of the European Commission, that institution, which has been accused of being overly bureaucratic and of having a democratic deficit, is bound to acquire a much more political aspect.

Thirdly, we all agree that, until now, the European Union's greatest success has been in the field of economic cohesion. The specific regulations in the Constitutional Treaty – mainly the incorporation of the charter of human rights, but also the protocol on territorial cohesion – has strengthened the social cohesion in the European Union.

At the beginning of the constitutional conference, all politicians who participated had definite ideas on its outcome. The Constitutional Treaty is, by definition, a product of wide consensus and, therefore, compromise. However, it includes the possibility of taking decisions on the basis of strengthened majorities and the possibility of expanding the field of application of this principle, again by consensus. That solution may assuage the concerns of those who like to limit the exceptions to the rule of consensus. When politicians inform the public about the Constitutional Treaty, we must work on the basis of the solidarity principle, taking into account the importance of this treaty for the less-developed countries of Europe and the need to dampen any overly nationalistic tendencies, which I have seen on television.

All of us – especially Europe's younger generation – are fully conscious of the fact that today's most important problems, and their implications in the fields of peace, security, democracy and human rights, are of global importance and require global solutions. Beyond Europe, we must take account of the other peoples of the world – especially those from the third world – who are looking forward to a strong EU with an empowered voice that can take effective action. The Constitutional Treaty guarantees that possibility. We do not have the right to disappoint those who believe that we Europeans can construct a new world based on the trans-temporal values and principles of Europe. At the same time, we must convince the United States, Russia, emerging powers from Asia such as China and India and others that the noble cause of peace and equality is best served through co-operation with the EU and in conformity with its principles.

THE PRESIDENT. – Thank you, Ms Papadimitriou. I call Mr Mimica.

Mr MIMICA (*Croatia*). – Europe begins in the mindset and deeds of each and every citizen. The mission of the Council of Europe and the mission of the European Union will not be accomplished unless every European recognises and disseminates basic values of democracy, the rule of law and human rights in their everyday lives. The Council of Europe must therefore take an interest in the progress towards the adoption of the Constitutional Treaty for Europe, because that treaty concerns the majority of the Council of Europe members and citizens.

When we discuss the EU constitution, we are talking about something that is important for the people. The EU is not for institutions and political elites; it is for its citizens. Building the EU means building our societies, an area in which the Council of Europe fits perfectly. Our task is not to convince our citizens that Europe is good for them, but to make them aware that they are Europe.

The role of the Council of Europe and our Parliamentary Assembly is to point out the human and value-based dimension of the EU constitution. We were the first to advocate that the EU should be not only a community of competitive economic and trade arrangements in a single internal market, but a community of like-minded people ready to promote and exercise democracy and the rule of law, which allows the co-existence of different identities and which supports the building of an area of freedoms.

The Constitutional Treaty will be scrutinised under that spotlight. That will enable us to assert that the proposed constitutional arrangements can contribute to narrowing the gap between the institutions of the European Union and its citizens. That gap was originally prompted by a democratic deficit, or, more exactly, by a parliamentary deficit, which has been an inbuilt consequence of the fact that major joint decisions in the Union are not taken by the national parliaments together with the European Parliament.

Croatia, which is a candidate country for EU membership, has two important questions about the EU constitution – how in the past and why in the future.

Our current debate will be useful if we can agree to send three major messages to the public in Europe. First, the Constitutional Treaty reinforces and implements the values that the Council of Europe has firmly upheld throughout the past half century. We must therefore stand in favour of its ratification by encouraging all those who expect that the Constitutional Treaty will create a better and more functional European Union ready smoothly to accomplish its enlargement.

Secondly, we must discourage all those who presume that the non-ratification of the Constitutional Treaty will bring the current European Union to its end. We must place our confidence in the EU's capacity to overcome the disturbing possibility that the treaty will fail to be ratified in some member states by reconsidering and agreeing alternatives for constitutional arrangements.

Thirdly, explaining and promoting Europe is not enough. What matters now is debating Europe. We must encourage that debate in order to establish clear arguments on issues of concern. If the EU constitution is rejected, it should happen only because of reasons pertaining to its specific provisions, and not because of outside concerns related to internal political power-play in member states.

It may be that the driving forces of the European Union went a little bit too far a little bit ahead of time in defining the current structure of the Constitutional Treaty. However, the Council of Europe has always been *avant garde* on progress in Europe, and we are therefore the proper forum to understand and support the vision of a better future for Europe contained in the EU constitution.

THE PRESIDENT. – Thank you, Mr Mimica. I call Mr Badré.

Mr BADRÉ (*France*) said that the issue of the Constitutional Treaty should be of concern to all European citizens. The European Union was the embodiment of the importance of Human Rights. The work of the European Union was closely linked to the work of the Council of Europe, so it was right to be debating the issue of the Constitutional Treaty in the Assembly. He was in favour of the European project and felt that France risked turning its back on its own dream of a united democratic Europe. The French referendum was of concern to everyone. Two questions should be posed. Firstly, was there a wish for the European Union to progress in the future? Secondly, was the Constitutional Treaty viewed as a step forward or a step back for the European Union. He believed that the Constitutional Treaty was a substantial step forward for the European Union. The Constitutional Treaty would deliver what was expected from Europe. A message of hope should be delivered to the European people. Political will and unshakable faith were needed. The Constitutional Treaty should be ratified.

THE PRESIDENT. – Thank you, Mr Badré. I call Mr van den Brande.

Mr VAN DEN BRANDE (*Belgium*). – I will speak in Dutch to show that Europe displays unity through variety.

(The speaker continued in Dutch)

He said that he would not react to the point made by Mr Wilkinson because a country without a constitution should not discuss the utility of a potential European Union constitution.

Europe was expected to be three things: firstly, an area of freedom and democracy; secondly, an area of knowledge, innovation and renewal; and, thirdly, a contributor to dynamism in the world. Europe should also be a promoter of peace, security and harmony. The question should be asked whether the Constitutional Treaty would help Europe to be such a place. He believed that it would. In the nineteenth century nation states had emerged and with them the rights of citizens. But the world was now in a different place and classical thinking was proving insufficient. The question arose whether the Constitutional Treaty could help Europe to achieve its objectives. Were the Constitutional Treaty to enter into force the system of running the union would be improved. The treaty would prevent the governments of member states from blaming the European institutions for situations that it could not itself solve. He conceded that the Constitutional Treaty was not ideal, but it was better than nothing.

The ratification of the Constitutional Treaty was a process of reunification which would result in the provision of new tools with which to run an ever closer union. He stressed that the principle of subsidiarity would still exist, and would in fact be strengthened in the Constitutional Treaty. He cited the words of the late Pope John Paul II who said "Be not afraid to change and renew ones organisation" Europe needed to say a firm yes to the Constitutional Treaty.

THE PRESIDENT. – Thank you, Mr van den Brande. I call Mr Jirsa.

Mr JIRSA (*Czech Republic*). – I am not sure whether a discussion about the European constitution is appropriate for the Parliamentary Assembly of the Council of Europe, as other organisations need to discuss the matter. However, attendance in the Hemicycle today demonstrates the importance of our debate. There are eighteen speakers on the list and there are another eighteen participants in the hemicycle.

It is interesting that the vote on the EU constitution is dividing European countries regardless of political affiliation. A year ago, I voted yes in the accession referendum in my country, the Czech Republic.

I regard the European Union as a big challenge for my country and for Europe as a whole. The European constitution, however, is a different matter. There are currently enough agreements, treaties and, last but not least, regulations in the EU. My Czech conservative party takes a negative approach towards the constitution. We have many reasons for doing so, but I shall mention only two. First, the constitution is a complicated text. It is unreadable and difficult to understand, and Europe does not need a constitution that citizens cannot understand. Secondly, the constitution changes the Europe of nations to one big European nation, and I am not sure that that is what we want.

The constitution would create a completely new European Union. The EU would be a big European state, not the European union of states that we have today. All the treaties and agreements of the European Union can be revisited to rectify mistakes. The constitution, however, is definitive. No one knows what the constitution will lead to in future so our yes or no vote is based mainly on our political feelings and on personal and historical experience. In conclusion, let me end with my personal motto. I will always fight for Europe's freedoms, but I will always fight against a Europe of regulations. I am afraid that as a result of the new constitution we will have a Europe of regulations for ever.

THE PRESIDENT (Translation). – Thank you, Mr Jirsa. I call Mr Steenblock.

Mr STEENBLOCK (*Germany*) said that it was important to discuss the issue. The answer Europe would give to the Constitutional Treaty would be important for the Council of Europe and for its work. He had been active in helping to draft the treaty and felt that it was the only path forward for a more capable and more democratic Europe. The treaty would strengthen to powers of both European institutions and national parliaments, and the treaty was also important in the field of human rights. The Constitutional Treaty would make Europe easier to manage and more effective. Those who would say no to the Constitutional Treaty would in fact be saying yes to a weakening of Europe. Europe should be an example of a success story. Whoever rejected the treaty was saying yes to a weakening of democracy. Sometimes it was necessary to strive not for what was ideal, but for what was feasible and reasonable today.

A Europe with the Constitutional Treaty would be a conglomerate of European states and of Europeans and this would be a substantial step forward. If there was belief in a Europe that was more integrated and progressive, the treaty should be ratified.

(*Mr Iwiński, Vice-President of the Assembly, took the Chair in place of Mr van der Linden.*)

THE PRESIDENT. – Thank you, Mr Steenblock. Mr Timmermans is not here, so I call Mr Rustamyan.

Mr RUSTAMYAN (*Armenia*) said that Europe stood before a fateful decision. It would be deciding whether it wanted a better organised union or whether it wanted merely to preserve the status quo or make superficial changes. The situation was well described by the phrase "unity in necessity". The Constitutional Treaty was necessary and Europe must stand united. A united Europe was needed for four reasons: for peace, for the promotion of universal values, for material and social progress and for the dissemination of European values throughout the world. The means and tools currently in place would not be sufficient if the European Union wanted to be more effective in the field of morality and justice. If Europe was to develop, it would need a new order and improved organisation. He understood the sceptics who were worried about preserving national identities, but stressed that the Constitutional Treaty would in fact strengthen the powers of national parliaments with regard to Europe. It was very important that the treaty came into force.

THE PRESIDENT (Translation). – Thank you, Mr Rustamyan. I call Mr Hunault.

Mr HUNAUULT (*France*) welcomed the debate. The European Union had been built step by step and through its success had brought about peace and prosperity. It was, however, not always transparent in its dealings. The Constitutional Treaty would bring about many improvements; there would be greater subsidiarity, a more prominent role for the European Parliament, further involvement of the member states and the spreading of European values. The European Union would therefore be better able to both tackle social exclusion and strengthen the internal market. The European Union fostered freedom and peace. The Charter of Fundamental Freedoms was reaffirmed by the constitutional treaty, based as it was on democracy and the rule of law. The treaty would provide safety, security and justice for European citizens. It would also safeguard fundamental freedoms, based on the values of the European Convention on Human Rights. That was a protection against terrorism. Finally, the treaty would strengthen economic competitiveness, cultural diversity and environmental protection, not just in Europe but more widely. The Assembly was right to hold the debate which, he hoped, would influence opinion in France in favour of the treaty.

THE PRESIDENT. – Thank you, Mr Hunault. I call Mr Kox.

Mr KOX (*Netherlands*). – I know that some people doubted that this debate would be of any use. After having heard all the contributions, I think that we can say that it has been of use.

When twenty-five member states of the Council of Europe are on the verge of forming one European superstate with one currency, one flag, one anthem, one huge liberal market, one foreign policy and one defence policy, the Council of Europe cannot pretend that nothing is happening. When those twenty-five member states seem to be ready to agree on one constitution for them all, which will bind them together for the foreseeable future, that surely influences the Council. Instead of forty-six member states, the Council of Europe will have twenty-one plus one, with the latter having more citizens, more money, more multinationals and more economic and military power than the other twenty-one. If that happens, as it may, the Council of Europe will be out of balance. When the twenty-five European Union member states combine their voices into one, as they will if the European constitution is ratified, that voice is likely to dominate debate in the Council of Europe from then on.

Changing the European Union will also change the Council of Europe. To neglect or deny that would be silly and stupid.

If this unification process were to be interrupted, that would have consequences for the Council of Europe as well. That will happen if a majority of the population of one or more EU member states decides that it is not wise to accept the constitution at this moment – perhaps because it gives too much power to its Eurocrats in Brussels by obliging all its member states to accept economic competition as the untouchable economic basis of its society to which everything will be related in the future, because it undermines the position of national parliaments or changes the balance between the bigger and smaller member states in the European Council and the European Parliament, or because national governments have lost the trust of their citizens.

If, for whatever reason, the no campaign wins in one or more referendums, that will also influence the future of the Council of Europe and of this Assembly. If the constitution is rejected – and on 29 May and 1 June the voters in France and the Netherlands might just do that – the European Union will have to evaluate itself and perhaps feel the need to reinvent itself. Such a reinvention could mean that the co-operation between the twenty-five member states continues but the construction of the house of the Union becomes more balanced, democratic, social and sustainable. If that happens, it too will affect the position of the Union in the Council and the relations of EU members with the other members of the Council of Europe.

There will be referendums on the constitution in ten out of the twenty-five EU member states. The pressure on the population to say yes differs from one country to another. In the Netherlands, ministers threaten the population with new wars and economic chaos. In France, the president says that the position of France in Europe and the world is at stake. In Denmark, the prime minister says that his country has to leave the EU if the Danes vote no. Only in Britain, the prime minister says nothing, hoping that others will kill the constitution before it kills him. In the twenty-one member states of the Council of Europe that stay outside the EU, neither parliament nor citizens can vote on the constitution although their future will develop in the shadow of big brother EU.

At the third summit, the European Union will talk about a memorandum of understanding between the Union and the Council. However, at that time it will not yet be clear which direction the citizens of France and the Netherlands will choose, and the same goes for the citizens of Luxembourg, the Danes, the Czechs, the British and others. So perhaps the moment in May is not right and it would be better to wait until more has become clear. The non-EU member states and their parliamentarians, who are represented in the Assembly, would then have a chance to say how they would like the relationship between EU member states and other member states of the Council of Europe to develop. Even if the memorandum is signed in Warsaw, this Assembly should say something about it. I therefore propose to put the evaluation of the third summit in the order of business for our plenary Session in June or September.

THE PRESIDENT. – Thank you, Mr Kox. I must now interrupt the list of speakers. The speeches of members on the speakers' list who have been present during the debate but have not been able to speak may be given to the Table Office for publication in the Official Report.

I remind you that at the end of a current affairs debate, the Assembly is not asked to decide upon a text; but the matter may be referred by the Bureau to the responsible committee for a report.

5. Debate: children seeking asylum

THE PRESIDENT. – The next item of business this afternoon is the debate on the report on protection and assistance for separated children seeking asylum presented by Mr van Thijn – I am sorry if I have committed an error, as I always have problems with that family name – on behalf of the Committee on Migration, Refugees and Population, Document 10477.

The list of speakers closed at 12 noon. Eight names are on the list, and one amendment has been tabled.

I call Mr van Thijn, rapporteur. He has eight minutes.

Mr van THIJN (*Netherlands*). – Saving one child is saving humanity. That was the Biblical device of the group of resistance workers who saved my life sixty years ago when I was a separated child seeking refuge and protection against persecution; they thereby saved one child. Sixty years later, I am standing before you presenting this report.

Today, half the world's refugees and displaced persons are children who have fled their homes to escape persecution, human rights violations, exploitation, abuse or natural disasters. More than two million of them have been killed in conflicts during the past decade and thousands lost their lives in the recent tsunami disaster. Thousands of children are killed every year during armed conflicts around the world. According to figures released by the United Nations in February this year, 300 000 children are exploited as soldiers. Others are victims of persecution, abuse and exploitation, including trafficking for prostitution.

Children are vulnerable at the best of times. Those who are in a foreign country, seeking asylum and separated from their parents or legal or customary primary care givers are particularly vulnerable. Separated children seeking asylum make up approximately 4% of the number of asylum applicants in Europe; in some countries, that proportion rises to 10%. They are vulnerable because being alone they can more easily be victims of exploitation and abuse at the hands of unscrupulous adults. Unfortunately, they are also vulnerable from a legal point of view because of gaps in legislation on the appointment of legal guardians. They may find it more difficult to find the protection that they are entitled to as refugees.

The Council of Europe has a lot of experience in work on children as well as on refugees but has never approached the issue of separated children seeking asylum in a comprehensive manner. It is time to address this issue further in the Council of Europe and in member states. The text submitted for your attention today is an important step towards rationalising the activities of the Council of Europe in this field and supporting the activities of other agencies, especially the Office of the United Nations High Commissioner for Refugees and the separated children in Europe programme.

The starting point when dealing with children is the need to follow the best interest of the child, laid down in Article 3 of the United Nations Convention on the Rights of the Child.

A review is also needed of child-specific forms of persecution, such as forced recruitment into the armed forces, forced child labour, female genital mutilation and forced marriages or pregnancies.

The Committee of Ministers is urged to draw up a recommendation on protection and assistance for separated children who seek asylum. It should urge member states to: recognise the principle of the best interests of the child and that of non-discrimination; ensure that separated children are not turned away at countries' borders on any ground; ensure that a legal guardian and legal representative are appointed as a matter of urgency, with a suggested maximum delay of two weeks; ensure that separated children are heard and that they are questioned in a way that is in keeping with their age, maturity and psychological condition; exempt separated children from all accelerated asylum procedures; give special humanitarian residence permits to children who have been subjected to child-specific forms of persecution and who are not recognised as refugees, and use detention of separated children only as a last resort and for the shortest possible time.

On a practical level, there is a need to train lawyers, officials and others who deal with separated children.

There is a need to harmonise the registering of information on separated children to facilitate identification. There also needs to be a common standard for assessing the age of separated children. In both those matters, states need to co-operate fully with the UNHCR and the Separated Children in Europe Programme.

All the steps suggested in my report and the draft recommendation go in one direction – that of ensuring the primacy of the best interests of the child. Dear colleagues, I ask for your support for the proposed draft recommendation.

THE PRESIDENT. – Thank you. I call Mr Gülçiçek to speak on behalf of the Socialist Group.

Mr GÜLÇİÇEK (*Turkey*) said that an important topic was being discussed. Recent events had shown the tragic side of the subject. On behalf of the Socialist Group he wished to speak about the topic of children separated from their parents or guardians who were seeking asylum in other countries. That showed the refugee problem in its most extreme form, including the trafficking of children. The problems of countries of transit and target countries needed to be tackled by economic and financial means. He shared the views of the rapporteur that the United Nations High Commissioner for Refugees should require family protection for these children. When such children fled to a foreign country they required protection. All relevant organisations, including NGOs and public bodies, needed to bring those matters to public notice. The rapporteur had rightly stressed the issue of how refugee children were received. Such children required medical and legal assistance and had to be specially protected. Transit and target countries must be given economic aid, and international organisations should provide assistance.

THE PRESIDENT. – Thank you. I call Ms Zapfl-Helbling to speak on behalf of the Group of the European People's Party.

Ms ZAPFL-HELBLING (*Switzerland*) said that half a million children were presently refugees. In the light of that, she expressed surprise at how few members were in the Chamber. Such children were frequently in positions of risk, including enforced prostitution and child soldiers. Estimates of the problem were hard to come by. In Switzerland in 1998 there were 2 500 unaccompanied minors, 95% of whom were aged between 15 and 18. The remaining 5% were younger than that. Their countries of origin were Yugoslavia, Kosova, Albania, Turkey, African countries, and Iraq. She pointed out that some countries on this list were members of the Council of Europe.

There were various reasons for the flight of refugee children, but there was one common thread: all the countries involved were undergoing civil war. International regulations required that a guardian should be appointed for refugee children. In Switzerland, however, that depended upon the attitude of individual cantons. Legal representation for those children was very important because they lacked money and language and other skills. However, that was not the case throughout Europe. Children who were placed with foster families were found to have begun training earlier. She had recently attended a conference in Vienna where she had learned how many such children were engaged in begging, criminal and sexual activities. It was for those reasons that the children needed help, not only on the basis of international law but in the name of humanity.

For the Council of Europe that was a matter of human rights. The image of the "sweet little child" had to be dispelled. The duty was to work for the care of all such children. No regard must be paid to the conditions of their countries or their likely length of stay. She thanked the Committee for its report.

THE PRESIDENT. – Thank you, Ms Zapfl-Helbling.

I call Ms Bargholtz, on behalf of the Liberal, Democratic and Reformers' Group.

Ms BARGHOLTZ (*Sweden*). – Can you imagine yourself, as a parent, sending your children away from home on their own to a strange country because you fear for their lives and cannot see any future for them in your own country? That is the most tragic decision for a person to make, and many such decisions are made all over the world.

On behalf of the Liberal, Democratic and Reformers' Group, I wholeheartedly support this report, for which I thank the rapporteur. In my country, we have discussed the importance of appointing a legal guardian for each separated child, which is an issue that is also discussed in the report. Such children already have a representative in Sweden who is responsible for legal matters related to applications for asylum. The legal guardian provides parental support for the child, and they must be highly qualified to undertake that difficult responsibility.

The rapporteur has asked whether it is possible to draft a list of countries where children are safe from trafficking, forced marriages, slavery or female genital mutilation. Perhaps that is possible, but I do not think so. There are problems in all countries, including my own, which create great risks for separated children who are seeking asylum. In Sweden, such children are mostly put into institutions, where, as far as possible, they are treated as normal children, which means that they can leave those institutions, unless they are very young. However, that has caused problems, because some children disappear from

their institutions. Some children have been contacted by grown-ups, who declare themselves to be relatives and who recruit the children for different criminal activities and sometimes for trafficking. Such children do not want to tell the staff at their institutions about such contacts. In order to give separated children a safe environment and freedom, it is important that they all have a legal guardian whom they trust. Care for separated children must be improved, and it must be based on the best interests of every child.

The rapporteur wants member states to amend their legislation to exempt separated children from accelerated asylum procedures. However, it is vitally important that asylum procedures do not take longer than three months, because a longer period might cause children great anxiety and suffering.

Finally, the rapporteur wants the Council of Europe's specialised committees to get involved in the difficult and important issue of separated children who are seeking asylum. As the Chair of the Social, Health and Family Affairs Committee's Sub-Committee on Children, I want my sub-committee to be involved.

THE PRESIDENT. – Thank you, Ms Bargholtz. The co-operation that we have seen in today's debate demonstrates that there is no animosity between Scandinavian countries.

I call Mr Çavuşoğlu, of the European Democratic Group.

Mr ÇAVUŞOĞLU (*Turkey*). – I also regret how few colleagues are present this evening. We are discussing children, who are our future, but there are more guests than members in the Hemicycle.

We all agree that children are our future, so it is impossible to understand the amount of cruelty and injustice that is inflicted upon them. I am disgusted by the way in which children are treated. They constitute the most vulnerable portion of our society, yet we fail to protect them. Hence, we fail their confidence, humanity and our future – such a shame.

The report reveals a world in which children are thrown across international borders and in which even adults perish. The blame falls upon all of us when any child falls prey to traffickers and paedophile rings in Europe. We must take action.

On behalf of the European Democratic Group, I agree with the findings of the report and support the draft recommendation.

Despite the importance and urgency of the issue, states have failed to provide coherent approaches to deal with the problem at hand, and there are many shortcomings in legislation, policies and practice.

The report points out that it is particularly worrying that, although all Council of Europe member states are party to the United Nations Convention on the Rights of the Child, serious drawbacks still exist in terms of the number of provisions laid down in the convention on elaborating and implementing asylum measures.

An in-depth study is required, and the Council of Europe is well-equipped to provide it. A number of specialised UN bodies are working in that field, and we should co-operate with them to see whether we can provide added value to practical and legislative measures. I believe that a compilation of best practice in that field will provide good examples to member states.

All measures must be taken to ensure good lines of co-operation between member states and specialised international organisations, most notably the United Nations High Commissioner for Refugees and the Separated Children in Europe Programme. I believe that this will help to get rid of current deficiencies in legislation and in implementation.

Europe must set the example to other parts of the world. The fact that Europe has become such an attraction for asylum seekers adds more urgency to this question, as many of these separated children try to gain access to Europe.

The Council of Europe is the organisation that provides a platform for 800 million Europeans to create common legal ground for co-operation and the harmonised application of principles. We should use this opportunity to remedy the state of affairs in this field and ensure a better future for our children.

In our works, we should all recognise the overarching importance of the best interest of the child and urge all member states to put immigration policy considerations aside when providing protection to children on account of their international obligations.

THE PRESIDENT. – Thank you, Mr Çavuşoğlu. I call Ms Stoitsits.

Ms STOITSITS (*Austria*) said the problem was one of concern to everyone. It was not a matter for individual states, but for the European and, indeed, the global community. In her experience unaccompanied minors settled wherever they could find refuge. Many unaccompanied minors ended up in Europe because it was the first country to allow them entry. Unaccompanied minors enjoyed special attention from legislation and were entitled to support and legal counsel. Different levels of protection were offered in different countries. Often it could be difficult to determine the age of unaccompanied minors and some methods used to uncover this information were undignified and violated the individual's human rights. There was also the question of the internment of unaccompanied minors, although some countries referred to such internments in terms of "protective custody". To put an unaccompanied minor in custody should only be a last resort.

There was also the issue of how children denied asylum should be returned to their countries. Procedures in that respect must be appropriate for minors and there should be no reliance on the procedures used for adults. It should also be recognised that children did not always flee their home countries as a result of physical abuse, but could flee for reasons of physical need, for example hunger. She felt that children fleeing on such grounds should be given the refugee status denied them at present.

THE PRESIDENT. – Thank you, Ms Stoitsits. Mr Markowski is not here, so I call Ms Vermot-Mangold.

Ms VERMOT-MANGOLD (*Switzerland*) said that there was nobody more vulnerable than a child, especially a female child. The UN had estimated that there were between 10 and 12 million refugees in the world who were under the age of 18. In member states reception procedures for asylum seekers had worsened. Member states' desire to combat illegal immigration had hit children hard. Children had special rights and needed protection and good legal help. Children should never be subjected to accelerated procedure. An important question was what to do with those children not granted asylum. Young people could sometimes seem very adult, but integration was always important and there reference should be made to the 1989 UN Convention on the Rights of Children, which stated that children had a right to education and training. That right should not be denied to those in precarious situations.

It was important to place refugee children in schools as soon as this was practicable, because children not attending school were an easy target for drug dealers who tempted them with the chance to earn money. It was important that the term "child" was described precisely, and for that reference again could be made to the 1989 UN Convention which stressed that a child was somebody under the age of 18 and not 16.

THE PRESIDENT. – Thank you, Ms Vermot-Mangold. Mr Visser is not here, so I call Ms Griffiths.

Ms GRIFFITHS (*United Kingdom*). – I thank the rapporteur for the report, which is welcome and long overdue. I share the mild disappointment of members in the Hemicycle at the low number of delegates who have taken an interest in this subject, although I accept that there are pressures on all of us.

The report is timely, as there has been a great increase in the number of unaccompanied minors, as we call them in the United Kingdom, or separated children who are seeking asylum. Very often, they have fled conflicts. In the UK, in the past five years or so, a great many children and young people have sought asylum after leaving the former Yugoslavia, specifically Kosovo. Their parents and other family members may have been killed before their eyes and they are badly traumatised. Typically, they arrive in the UK at the age of 15 or 16, and remain in the country while their claim is processed. As a result they reach the age of majority – 18 – when they are no longer children. I should like to look briefly at the difficulties faced by separated children who arrive in the United Kingdom. I am sure that their experience is replicated elsewhere.

Children do not always receive legal representation, as the report highlights. They may not benefit from the appointment of legal representatives. If children do benefit from the appointment of such representatives, they should be trained and qualified, and should understand the issues. Imagine the plight of a 14 or 15-year-old boy who does not speak a single word of the language of the country in which he finds himself. Naturally, he does not have any knowledge of the legal systems and asylum processes that apply. He may be traumatised, and may have both physical and mental injuries. How can that young person protest if the legal representation that he receives is not competent or good enough? That legal representative, sadly, may take money to represent people, but do very little for them or fail to act competently. The recommendation goes some way towards addressing that problem, and it should be adopted.

In my own area, young people in that position are often helped, and the best help that they receive is from church and volunteer workers. That help is extremely welcome, and it should be recognised in the work that is undertaken as a result of the report. The report calls for "the organisation and delivery of specific training for lawyers as well as officials and other professionals". Those professionals should draw on the experience of volunteer workers who work hard to offer assistance in this field. I should like to mention Harriet Townsend, a church worker in Reading in the UK, and I hope that her unrivalled expertise will be called upon at some stage.

The report also refers to the fact that the definition of separated children and unaccompanied minor asylum seekers varies in different member countries of the Council of Europe. There are also differences between different local authorities. To some extent, that is the case in the United Kingdom, and it is also the case elsewhere. The report says that a high proportion of asylum claims by separated children are considered to lack credibility. That is not surprising, given the experiences that they have had.

In conclusion, I hope that the Office of the United Nations High Commissioner for Refugees, other bodies and the Council of Europe will conduct further work to end the human rights abuses suffered by separated children asylum seekers.

THE PRESIDENT. – Thank you, Ms Griffiths.

That concludes the list of speakers. I call Mr van Thijn, the rapporteur, to reply.

Mr VAN THIJN (*The Netherlands*). – I thank all the speakers who supported the proposals and recommendations in the report. All of them subscribed to the best interests of the child as a basic principle. I thank all the absentees for their silence. The speakers represented various political groups, but my impression is that the report has widespread support, despite the empty seats in the Hemicycle. Full hearts therefore take the place of empty chairs.

I thank Ms Sonia Sirtori, who made a major contribution to the drafting of the report. I also thank Mr Mark Neville. Several speakers, including Ms Zapfl-Helbling, referred to the huge number of children affected. Ms Vermot-Mangold cited the figure of 11 million child refugees. It is a huge problem of immense complexity and it is also a great tragedy. Apart from the numbers, we must also consider the psychological dimension of human sorrow raised by Ms Griffiths. Most of these children are traumatised and we should be aware of that. The quality of reception in member states does not accord with the needs of those children.

As has been proposed, we should pay more attention to post-traumatic stress syndrome. The last thing that we should do is put such children in detention. How could anyone do that? I suppose that it could be done as a last resort, but not to children of four, five, six or seven years. In such cases detention is always unacceptable.

THE PRESIDENT. – Thank you, Mr van Thijn. I call Mr Wilkinson, chairperson of the committee.

Mr WILKINSON (*United Kingdom*). – On behalf of the committee I pay a warm tribute to Mr van Thijn for an excellent report. He has brought great humanity, considerable wisdom and long, heartfelt experience, both personal and political, to his task. We are indebted to him and to all who participated in the debate, from within the committee and without.

If I may be invidious just this once, I pay special tribute to my friend and colleague Jane Griffiths, who, like me, is not seeking re-election to the House of Commons. She has enormous international experience, and she spoke from the heart today and gave us the benefit of her experience in Reading, which is relevant. My constituency is not so very far away, near Heathrow airport, the biggest port of entry into the United Kingdom. My local authority spends £1.5 million a year looking after unaccompanied minors who come in through that route.

The points made by the rapporteur are critical. Detention should be only a last resort. There must be specialist training, and appropriate lawyers must be available. The primacy of the best interests of the child must always be borne in mind. The prompt appointment of an appropriate legal guardian is obviously crucial. Child-specific forms of persecution should be regarded as acceptable criteria for refugee status. Those include trafficking, slave labour and conscription as child soldiers. We should facilitate family reunion through sophisticated means of information exchange whenever we can.

The report has touched the conscience of all of us. It is an effective report and we are most grateful to our rapporteur.

THE PRESIDENT. – Thank you, Mr Wilkinson. We will miss both you and Ms Griffiths.

The debate is closed.

The Committee on Migration, Refugees and Population has presented a draft recommendation in Document 10477, to which one amendment has been tabled. I remind you that speeches on the amendment are limited to one minute.

We now come to the amendment, tabled by Ms Ruth-Gaby Vermot-Mangold, Mr Wolfgang Wodarg, Ms Jelena Hoffmann, Mr Walter Riester, Ms Christine Lucyga and Mr Klaus Werner Jonas, which is in the draft recommendation, paragraph 1, at the end of the first sentence, add the following words:

" , defined as a person aged from 0 to 18 years by the UN Convention on the Rights of the Child (1989)".

I call Ms Vermot-Mangold to support the amendment.

Ms VERMOT-MANGOLD (*Switzerland*) said that her amendment was self-explanatory. It sought to define children as those between the ages of 0 and 18, as stated in the UN Declaration on the Rights of the Child. This was an important clarification.

THE PRESIDENT. – Does anyone wish to speak against the amendment? That is not the case.

What is the opinion of the committee?

Mr WILKINSON (*United Kingdom*). – The committee voted in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 1 is adopted.

We will now proceed to vote on the whole of the draft recommendation contained in Document 10477, as amended.

The vote is open.

The draft recommendation in Document 10477, as amended, is adopted.

6. Date, time and orders of the day of the next sitting

THE PRESIDENT. – I propose that the Assembly hold its next public sitting tomorrow at 10 a.m. with the orders of the day which were approved on Monday 25 April.

Are there any objections? That is not the case.

The orders of the day of the next sitting are therefore agreed.

The sitting is closed.

(The sitting was closed at 6.25 p.m.)

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Amendment No. 1 adopted.

Draft recommendation contained in Document 10477, as amended, adopted.

6. Date, time and orders of the day of the next sitting