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REPORT

Twenty-eighth sitting

Wednesday 5 October 2005 at 10 a.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 10.05 a.m.

THE PRESIDENT. – The sitting is open.

1. Minutes of proceedings

THE PRESIDENT. – The minutes of proceedings of the 25th and 26th sittings have been distributed. The minutes of proceedings of the 27th sitting have not yet been distributed. They will be adopted at a later sitting.

Are the distributed minutes agreed to?

The minutes are agreed to.

2. Voting cards and the register of attendance

THE PRESIDENT. – May I remind all members – including any non-voting Substitutes and observers – to sign the attendance lists outside the doors of the Chamber at the beginning of every sitting?

May I also remind all Representatives and duly designated Substitutes to ensure that they have placed their voting cards in the slot so as to ensure that the electronic system will work properly?

Thirdly, I emphasise to everyone present the importance of switching off mobile phones during sittings of the Assembly and during committee meetings.

3. Election of the Council of Europe Commissioner for Human Rights – second round

THE PRESIDENT. – This morning, the orders of the day call for the second round of the election of the Council of Europe Commissioner for Human Rights.

The first round took place yesterday morning and no candidate received an absolute majority of votes cast. In this second round, a relative majority of votes cast is required. In the event of a tied vote, there would have to be a third ballot, and if necessary further ballots, until a decision is reached.

The list of candidates and biographical notices are contained in Document 10661.

The candidates are as follows, in alphabetical order:

Mr Thomas Hammarberg

Mr Marek Antoni Nowicki

Mr Marc Verwilghen

A summary of the arrangements governing the election was printed in the notice paper for this morning.

The election will be held in the area behind the President's Chair.

At 1 p.m. the poll will be closed. As usual, counting will then take place under the supervision of two tellers, whom we must now proceed to choose by lot.

I shall now draw by lot the names of the two tellers who will supervise the counting of the votes.

The names of Mr Jacyna-Onyszkiewicz and Mrs Hoffmann have been drawn. They should go to Room 1087 at 1 p.m.

I now declare the ballot open.

I will announce the results of the election here in the Assembly Chamber at the start of this afternoon's sitting.

4. Honouring of obligations and commitments by Ukraine

THE PRESIDENT. – The next item of business is the debate on honouring of obligations and Commitments by Ukraine, presented by Mrs Severinsen and Mrs Wohlwend on behalf of the Monitoring Committee, Document 10676.

The list of speakers closed at 6 p.m. yesterday; 19 names are on the list, and 30 amendments have been tabled.

I call Mrs Severinsen and Mrs Wohlwend. You have eight minutes to share between you.

Mrs WOHLWEND (*Liechtenstein*) said that there had not been enough time since the presidential elections to assess the situation in Ukraine. Certain reforms had been carried out: she congratulated the Ukraine on this, but noted that other improvements remained to be made, for example, on judicial reform. Ukraine had entered into a number of commitments 10 years ago which had not yet been fulfilled. It was necessary to look closely at the constitutional reform package of December 2004: reforms had to be in keeping with the constitution, and there were doubts whether the December package met that requirement. The state prosecutor's office was still working on the old Soviet model and its powers were not yet clearly formulated. It was clear that some people wished to retain the Soviet model. The committee did not want a situation in which the state prosecutor acted as counsel for the accused: he should be a genuine prosecutor. Therefore, she urged the Assembly to adopt the draft resolution with a few minor changes embodied in some of the amendments.

Mrs SEVERINSEN (*Denmark*). – Ten years have passed since Ukraine became a member of the Council of Europe. A long list of commitments was agreed when it joined. Today, our emphasis is on not only the formal commitments, but the honouring of the general obligations towards democracy, human rights and the rule of law. Developments in Ukraine have shown how difficult it is to get rid of former power structures. There have been some improvements, but there have also been shortcomings. The authorities wanted to keep all the presidential powers, not because of a political programme, but because of the power itself. The media was manipulated with the so-called "temnyky", and the people became more and more disillusioned.

Just before the 2004 presidential election, an opinion poll was carried out that made me very sad. People were asked who they thought would receive the most votes. They said that it would be Yushchenko, but when they were asked who they thought would take over, they said that it would be Yanukovich. They did not believe that they could change things. However, after the first round of elections in October, the people saw that they could change things. The Orange Revolution was the people's revolution. One of my most significant experiences was to be present in Independence Square at that time. The demonstration was a peaceful manifestation by the people, who wanted to elect a president of their choice. When the newly installed president came to the Council of Europe, we were full of expectations.

It is my sincere hope that the report will be used as a road map to assist the further development of Ukraine. Changes do not occur overnight and the reforms should not stop. Political struggle is normal and it is not our business to determine which government takes power. I hope that the agreement on amnesties for electoral fraud will not apply to those who masterminded the problems that Ukraine experienced. They should be prosecuted.

It is a great achievement to establish a pluralistic media. A free media is crucial and we are disappointed with the lack of progress in the Gongadze case. We have tabled many amendments on that, and those responsible for the murder must be found. We should insist on that. The most important thing is a free and fair election. We will follow the situation closely, because it is one of the preconditions for further development.

THE PRESIDENT. – Thank you, Mrs Severinsen. I call Mrs Hoffman on behalf of the Socialist Group.

Mrs HOFFMANN (*Germany*) congratulated President Yushchenko on his investiture and wished him a speedy recovery from his poisoning. She believed he would strive to embed the Council of Europe's values in Ukraine.

A great deal had been achieved in the first year of the reform process, although there remained some points of criticism. She welcomed the progress that had been made to reform the judiciary, and recalled that Germany had been co-operating with Ukraine for the past 10 years. Significant improvements still needed to be made to reform Ukraine's institutions. The judiciary and public prosecutor's office must

be independent from the executive and other influences to allow citizens to defend themselves against arbitrary accusations. The reference to the publication of CPT reports in paragraph 13.7 of the resolution should be strengthened.

Her recent experience as an election observer led her to conclude that the Assembly should ensure observers were sent to the March 2006 elections. The Council of Europe had successfully supported reform in Ukraine. She wished Ukraine every success on the path to democracy.

THE PRESIDENT. – Thank you. I call Mr Van den Brande on behalf of the European People's Party.

Mr VAN DEN BRANDE (*Belgium*). – I should like to begin by congratulating our two rapporteurs. They are back in Strasbourg but they are often in Ukraine, and it is good to have rapporteurs who are committed not only to producing written reports, but to change in that part of Europe.

I remember the strong statement that President Yushchenko made before our Assembly. It has been said that in fact, there is no choice: support has to be given to the commitment to new democratic responsibilities. It is obvious that the Council and the Assembly played an important role in bringing about such change. We often reflect on what we can do in a concrete way about the state of the law, democracy and human rights, and even though it might sometimes be better to get more strongly involved during certain difficult periods, it is right to point out that our efforts have been important.

A lot of progress has been made, but a lot remains to be done. For example, we must consider the functioning of the democratic system and the party-building system in Ukraine. It is of fundamental importance to the forthcoming parliamentary elections that there are political parties aiming for the necessary reforms in Ukraine.

I have several concerns – they are more than concerns – about the last deal, if I may put it that way, between the President and the Prime Minister. Such a deal is potentially in total contradiction to our comments about the right equilibrium between the controlling democratic parliament and the powers of the president. There should not be hidden powers, which are contradictory to the normal functioning of a democratic system.

An independent judiciary is a cornerstone of democracy and the functioning of the rule of law. On 6 and 7 July in Kiev, we had a long talk with the presidential committee, the President and the then acting Prime Minister, among others. The problem concerning the prosecutor's office has yet to be solved.

Another problem is that the oligarchs are still in place in Ukraine. It is probably overstating the case to say that corruption is endemic in Ukraine; indeed, it is also a problem in other countries. Democracy also means economic and societal democracy; it is not just a question of the organisation of powers. It is unthinkable that a new oligarchy be allowed to replace the old one.

Of course, there is also the Gongadze question. Tomorrow, I will be able to question the Speaker of the Ukrainian Parliament. That is an innovation, as normally, we can question only ministers or prime ministers. In terms of today's debate, we need to know the real situation and to have total transparency.

Many developments are under way. The draft resolution and the amendments tabled in committee are a step in the right direction, and we in the Group of the European People's Party will offer our total support for the resolution, the recommendation and the amendments. We have to have the right standards – our common standards – in Ukraine; that is our point of reference. We have to remain critical but we also have to be co-operative, and to be positive about the change needed by Ukraine and its citizens.

THE PRESIDENT. – Thank you. I call Mr Mollazade on behalf of the Alliance of Liberals and Democrats for Europe.

Mr MOLLAZADE (*Azerbaijan*). – I begin by expressing my gratitude to two brave ladies: Hanne Severinsen and Renate Wohlwend. They have contributed greatly to the victory of democracy in Ukraine. The Council of Europe has also made a big contribution to this process. The people of Ukraine who started the Orange Revolution enjoyed great support from the Council of Europe and from our two brave ladies, who were always critical of the previous regime and of the situation in Ukraine. Such support gave the Ukrainian people the chance to begin new processes.

The position is important to all Ukraine's neighbours as well: to Moldova, for instance, because Ukraine's new stance on the Transnistria negotiations allowed the chance of a settlement, and to the

people of Georgia and Azerbaijan. We now have a good, strong partner for the purposes of European and Euro-Atlantic integration.

There are always high expectations following a revolution, and in this instance there are high expectations of the people of Ukraine not just here in Europe, or in neighbouring countries. There will never be a miracle, of course. Mr Yushchenko and his team now feel the weight of a heavy heritage. The country needs deep and serious reforms in the political and legal systems, and in the economy. First and foremost, it needs a series of regional reforms and a decentralisation of power. It also needs reform of the education system, and a new kind of manager.

The Council of Europe, the European community and the international democratic community have helped Ukraine, but the process is only just beginning. Ukraine now needs more support and attention. That is important to Europe because it wants enlargement, and the people of Ukraine can learn from Europe's experience to secure a new kind of management of the economy. Ukraine needs investment to create a new economy that can integrate into the European economic system.

I can tell my European colleagues that Ukraine will be one of the best countries in Europe, but we must help it now. Ukraine will return all the investment from Europe and our friends around the world. Ukraine will become a nucleus, promoting democracy and European values in eastern Europe and guaranteeing that totalitarianism and imperialism will never be restored. As I have said, however, it needs help now. It needs help every day, in different spheres. Its people need opportunities to study at European universities, because the country needs a new type of specialist.

The Council of Europe can support Ukraine while continuing to criticise the new authority's inheritance. The implementation of the report's recommendations will help the process of reform. I believe that the Council of Europe can, on the basis of experience, help not just the Ukrainian Government but regional authorities. Reforms and the introduction of democracy should begin at the bottom rather than the top. As a liberal, I know how important democracy is, and it is particularly important in this context.

THE PRESIDENT. – Thank you. I call Mrs Oskina to speak on behalf of the European Democratic Group.

Mrs OSKINA (*Russian Federation*) recalled that in the 10 years for which Ukraine had been a member of the Council of Europe, only a limited proportion of conventions and protocols had been ratified or signed. Although Ukraine had given commitments to support minority languages, the rights of Russian-speaking citizens were becoming increasingly limited. There were gross violations of the principle of the free use and development of minority languages. A number of Russian-speaking schools had been closed and the judiciary was now required to operate in Ukrainian throughout the country.

Russian language and culture were part of Ukraine's cultural heritage, as they were in many other former Soviet countries. The Assembly should continue to support the progress towards stability in Ukraine.

She noted that paragraph 13.6 of the draft resolution referred to the draft criminal procedure code and suggested that it should be amended.

THE PRESIDENT. – Thank you. I call Mr Christodoulides to speak on behalf of the Group of the Unified European Left.

Mr CHRISTODOULIDES (*Cyprus*). – On behalf of my group, I warmly congratulate the Ukraine delegation on the 10th anniversary of its accession to the Council of Europe. Let me also express our satisfaction with the Ukrainian Parliament's most important contribution: its sincere efforts to honour the obligations and commitments that it took on when it became a member of this Organisation. While we are well aware that Ukraine still had much to do in order to abide fully by its obligations and commitments to the Council of Europe, we firmly believe that our colleagues in the Ukrainian delegation will do their utmost to ensure that their country conforms with the rules and regulations that govern the Assembly.

As far as the report prepared by our dear colleagues Mrs Severinsen and Mrs Wohlwend is concerned, allow me to express some personal views as well as some on behalf of my group. I was twice a rapporteur on behalf of the Assembly: for the 1995 parliamentary elections in Ukraine and for the first and second rounds of the 2004 presidential elections. In general, I also continuously follow developments in Ukraine.

I start by saying that we do not accept the views expressed by the rapporteurs as far as the so-called "revolutions" in Ukraine, Yugoslavia and Georgia are concerned. We totally disagree with the

rapporteurs' encouragement for the repeat of such revolutionary acts in neighbouring countries. In this respect, I simply remind the Assembly that, before the revolution in Yugoslavia, there was a NATO aggression against that country on the ground of protecting the human rights of the Kosovans.

At this point, let me pose a question about whether NATO's use of force in Yugoslavia, which was followed by a revolution against Milošević – by the way, he used to be a favourite of NATO and the United States – led eventually to a full restoration of the human rights of the hundreds of thousands of Serbs in Kosovo who, as a matter of fact, were treated even worse than the Albanian-speaking people were treated by Milošević.

Secondly, I would like to make a special reference to the Orange Revolution in Ukraine. Ten months have passed since the election of President Yushchenko who, upon his election, committed himself to great changes in his country and particularly to the fight against corruption. Have they happened in the 10 months that Mr Yushchenko has been in power? Let us not forget that, some days ago, he dismissed the cabinet of Mrs Tymoshenko on the grounds of corruption, violations of the law and illegal acts in general.

It is therefore our view that the replacement of a "corrupt" regime, as the previous one in Ukraine was alleged to be, with another regime should at least ensure that the fundamental principles of democracy and rule of law should prevail. Unfortunately, however, nothing of the kind has happened in Ukraine, and I dare say that it has not happened in Yugoslavia or Georgia either.

Despite our strong views and reservations about various issues raised in the report, we strongly believe that the Assembly has a very important role to play so that a democratic regime in Ukraine can prevail with the contribution and assistance of the Ukrainian Parliament, the government of the country, Ukrainian political forces and, of course, the people of Ukraine.

Ukraine is undoubtedly once again going through a difficult period. We hope and believe that, by respecting, abiding by and promoting democratic values and procedures in the country, the various problems it faces will eventually be solved and better days will soon come for the people of Ukraine.

THE PRESIDENT. – Thank you. I call Mr Slutsky.

Mr SLUTSKY (*Russian Federation*) thanked the President, and said that changes were taking place in Ukraine's ruling elite that would define a new political landscape in the country. He felt that the draft resolution did not reflect this shifting landscape and was, in fact, obsolete. He drew the Assembly's attention to paragraph 8, which underlined the importance of bringing to justice those responsible for electoral fraud. He felt that this did not recognise the agreement reached in Ukraine regarding those individuals. He was surprised that the Assembly would insist on taking those individuals to court when the country had made other arrangements. The resolution also ignored the political oppression of the opposition. It was important to highlight the problems facing Russian speakers in Ukraine, who constituted over one half of the population. The report should criticise the closure of Russian language schools in Crimea. The draft resolution appeared to have been drafted without a clear view of the current situation. He concluded that the report was lacking in constructive criticism that would enable Ukraine to move forward. He wished his Ukrainian colleagues luck with the future.

THE PRESIDENT. – Thank you. I call Mr Herkel.

Mr HERKEL (*Estonia*). – I congratulate the rapporteurs and their staff on a comprehensive and extremely valuable report.

I visited Donetsk at the end of last year and I had an interesting conversation. I was one of the Assembly's observers during the repeat of the second round of the presidential elections. I completed all the formalities and started to leave a polling station when a man humbly asked me, "If Mr Yushchenko wins the elections, how long will it take for Ukraine to become a member of the European Union?" I answered, "When you have had several good governments that are committed to this goal, when your parliament works hard on legislation, when you implement market economy reforms and when you minimise corruption. That may take much more than 10 years." That has been my experience in Estonia; it is a very long process. I saw that my interlocutor was very disappointed by my answer. I suggest that we, as European politicians, cannot make the mistake that he made. The process of democratisation in Ukraine will take a long time.

From the economic point of view we can hardly criticise that which has taken place in the nine or 10 months since the Orange Revolution. Emphasis has been placed on the lack of free-market economic

vision at the top level of government, on an inadequate judiciary and on corrupt bureaucracy. Other issues are violations of property rights and the arbitrary implementation of taxation.

As a politician, I cannot be too critical. Some of the difficulties and some of the problems – they are referred to clearly in the report – are linked to the situation during the Orange Revolution. The shift of power was only on the level of the presidency, not on the level of parliament. We are still awaiting parliamentary elections. Probably for the first time in Ukraine, there are real coalitions and governance is not an easy task. It is a complicated political landscape, but one that is developing. That is much better for the development of a political culture than to have one large and powerful party that covers all the branches of administration. Such a situation exists in some other member states of the Council of Europe.

In terms of constitutional reform, there has been a shift towards the parliamentary process. At the same time, I fully agree with Amendment No. 22. All the recommendations of the Venice Commission must be accepted and the process must be legitimate. The greater mandate of the people's deputies is also important. The problem has to be resolved in another way. Another issue is the power of the prosecutor's office and, of course, there is the Gongadze case.

I wish Ukraine great success in resolving its problems.

THE PRESIDENT. – Thank you, Mr Herkel. I call Mr Oliynyk.

Mr OLIYNYK (*Ukraine*) said that it was the 10th anniversary of Ukraine's accession to the Council of Europe. Ukraine had started from scratch in its attempt to meet European standards and had been under stringent obligations for the past 10 years. He was proud of the work undertaken but recognised that there was still more to do. The Ukrainian delegation recognised that the report was moderate and found its recommendations acceptable. It needed to be updated to reflect recent changes in the Ukrainian Constitution. Ukraine was working hard to develop a fully independent judiciary. He concluded by stating that attempts to destroy the Ukrainian language should be resisted.

THE PRESIDENT. – Thank you, Mr Oliynyk. I call Mr Kostenko.

Mr KOSTENKO (*Ukraine*). – Ukraine is moving towards democracy. This process is taking place despite a lack of understanding and non-acceptance by the countries' previous political leadership of European democratic values. The process is taking place despite attempts to install an administrative dictatorship and thereby deprive us of our right to take part in elections.

The Orange Revolution in Ukraine was the end of a 16-year struggle to secure national democracy and the right to live in the European house. After eight months of work by President Yushchenko and the new government, it is clear that there are complex problems facing the young Ukrainian democracy.

The absence in the Ukrainian Parliament of a democratic majority has led to the formation of a compromise that comes between totalitarian and democratic legislation that is not in line with European practice. It is precisely because of that imperfect legislation that state assets in Ukraine became the property of the oligarch clans. Ukrainian law did not provide for the development of fair business life in Ukraine, and that gave rise to corruption and bribery at all levels of authority.

The court system and the prosecutor's office remained unreformed because of the continuing opposition of the Ukrainian communists to the idea of their parliament being ruled by democratic principles. Throughout all the years of independence, freedom of expression and the rule of law have not become the norms of life.

Because of lack of time, I cannot enumerate the whole list of problems that we inherited from the previous regime. I will say just one thing: the new political team needs a lot of courage and patience to build Europe inside Ukraine. However, over the past eight months, Ukraine has become much closer to Europe than it did over the previous 14 years because during the Orange Revolution the Ukrainian people not only demonstrated their commitment to democratic values but proved to the regime that is the people who are the only source of power in Ukraine.

In this short post-revolutionary period, freedom of expression is being restored and the notorious "tymnyky" and political censorship have become part of the past. The right of the opposition to free expression and peaceful protest, the public's oversight of the authorities and many other things characteristic of democratic society have become the norms of our political life. But this is only the beginning of that work for the sake of democracy and of Ukraine's European future. We are ready for this, in co-operation with you.

On behalf of the Ukrainian delegation I would like to express our sincere gratitude to the rapporteurs for the wonderful work that they did to produce the draft resolution and for their dedicated long-term support for democracy in Ukraine.

(The speaker continued in Russian)

He said that Ukrainians had no problem with the use of the Russian language but there was concern about respect for the Ukrainian language in areas where Russian speakers predominated.

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

THE PRESIDENT. – Thank you. I call Mr Hancock.

Mr HANCOCK *(United Kingdom)*. – Thank you, Mr President. I am pleased to be able to take part in the debate. I genuinely thought that when we received the report of the two rapporteurs and the Monitoring Committee, there would be widespread disappointment and dismay at what they had found over the eight months since January. But there was a sense of realism both in the committee and in the Assembly, and a realisation that it was inevitable that change would not be quite as rapid as one would have imagined.

The report rightly exposes the difficulties that have been experienced, and I am pleased that the response of the Ukrainian authorities has not been to react against it in a vindictive or vitriolic way, but to accept that there are genuine criticisms that have to be addressed. It is to the credit of both the Ukrainian authorities and the Ukrainian parliamentary delegation that the recognition in the report was borne out by the comments that they submitted to the Monitoring Committee. The Assembly should be grateful for that, and it is right and proper that its members have congratulated the two rapporteurs and supported the work that they have done over the years. It is a unique achievement for two people to have done so much to build the processes that we hope will in time deliver the stable society that we all hope to see in Ukraine.

However, when we read the report and consider the situation we see that there are questions that the President has had the opportunity to address. I sat very close to where he spoke here in January. He came to this Assembly just two days after being inaugurated as president, and the orange glow that surrounded him like a halo was almost blinding, symbolic of the intensity of the support that he had both in his own country and in this Assembly to do something for the Ukraine. He gave promises and said what he would deliver, but in the end, amendments to constitutions and laws are only as good as the ability of the party political structure within a country to deliver.

I think that the President failed to deliver – to start the process of building, as Luc Van den Brande said, the party political structures that give a country the opportunity to deliver as a true democracy. That cannot happen when, as Leonid Slutsky described, the ruling elite simply play a game of musical chairs, and the cards are reshuffled. For a democracy to flourish, there has to be a party system that can deliver not only the right of the party or parties that are successful in an election to govern, but the right of the opposition parties to become a creative and positive opposition.

That will not happen if all we care about is constitutional changes and amendments to laws. What this Organisation and others ought to be helping to build is a party political structure that removes the oligarchs and the political elite and gives the people of the Ukraine the opportunity for once to be fully involved in the democratic processes of their country. It is not just the well educated and the intelligentsia who have the right to govern, but the working class and the mix of all the other people in a country. The young, the middle-aged and the old, women and men, and people of different religions and ethnic backgrounds should be able to play a full part. That can work only if party structures that invite and engage the community are created.

Ukraine will not succeed in becoming what we all hope that it will, and what many of the people who spoke in the Orange Revolution wanted, if it fails to address those issues. It is no good bypassing the majority of people in the country simply to satisfy the media, the European Union or the Council of Europe. Ukraine must address the aspirations of the people in its villages and small towns, and deliver for them a life without corruption and fear, with good health and good education.

We cannot ignore the pressures created by 12 million Russian speakers in that country. Leonid Slutsky and Vera Oskina were right to identify that as a problem that has to be addressed. It cannot be dismissed, and anyone who tries to dismiss it is not living in the real world.

It is no good the rapporteurs saying in a report that the human rights of Gongadze were taken away; of course they were – but there are other small people in Ukraine who do not have the powerful

voices of politicians in western Europe to speak for them. They have a right to the same social justice as we are trying to achieve for him. The report goes some way to delivering that, but sadly, there is still too far to go.

THE PRESIDENT. – Thank you, Mr Hancock. The next speaker is Mr Gruber.

Mr GRUBER (*Hungary*). – Thank you, Mr President. Last year, as an observer from the Hungarian Parliament, I was present at all three presidential elections in Ukraine. It was very interesting for me to see each election round becoming more democratic, among the people and also in the polling booths. Hungary welcomes last year's changes in the country and shares the opinion of the Council of Europe as expressed in the report on the functioning of the institutional system in Ukraine. I hope that the recent government crisis will not reverse the democratic changes. That is why it is important to set up an ad hoc committee to observe next year's election so that we help to maintain the new changes.

The fight against corruption and the strengthening of the constitutional state must be priorities for Ukraine. They form the fundamental principles of its democratic future. Hopefully, the transitional process will be positive and will result in full respect for human and minority rights, including the rights of national and ethnic minorities. It is in Hungary's interest to support that, so that Ukraine accedes to the European Union, and to strengthen the transformation process. We hope that Ukraine soon takes its well-deserved place in Europe.

THE PRESIDENT. – Thank you, Mr Gruber. I call Mrs Vėsaitė.

Mrs VĖSAITĖ (*Lithuania*). – It is easy to have a democratic revolution, but it is a long process to build up a democratic society in a country like Ukraine. The Orange Revolution was a miracle and had the support of a majority of Europeans. Unfortunately, the process of democratisation requires much time and patience and involves hard work by the president, the government, the public authorities and the ordinary citizens.

I shall concentrate on economic crimes and corruption, which threaten national security and democracy. Oligarchies have dominated the political system by forming business-oriented parties. The corruption has penetrated all levels of the authorities and public institutions. It started from the highest state official. Even the last political crisis was caused by oligarchies fighting for power. We are waiting for the new elections to take place, and we expect those to be democratic, but how can they be if seats on the electoral lists can be bought? We even know the price of those. I support the idea of developing a national strategy and action plan on combating corruption and hope that that will be efficiently implemented. We need to create such an institutional mechanism in Ukraine.

I congratulate the rapporteurs on the report. It is a constructive criticism and sets out a road map for a young democracy in Ukraine. We want all citizens in Ukraine to have a prosperous and democratic country.

THE PRESIDENT. – Thank you, Mrs Vėsaitė. I call Mr Timmermans.

Mr TIMMERMANS (*Netherlands*). – Earlier this week, we celebrated the day of German unity. The choice for unity was made not by politicians, but by ordinary people on the streets who said, "We are the people." Since then, the choices made by people in central and eastern Europe have one thing in common – the choice to be Europeans. They want to be part of the European project and of a region where the rule of law and democracy prevail.

I remember hearing people on the streets of Kiev and elsewhere at the time of the Orange Revolution say, "We are Europeans. We want to belong to the European family." That was one of their motivations. So the Orange Revolution was in part a call by the people to be part of the European project. That places a huge obligation on this Organisation. It is the will of the Ukrainian people to be part of the European project. Therefore, it is our duty as members of the Parliamentary Assembly of the Council of Europe to ensure that their ambitions are fulfilled within the rules and obligations of our Organisation. So I commend the rapporteurs for concentrating on that. I disagree with Mr Hancock, who said that we should concentrate on other things, such as building political parties. We should stick to our core tasks of implementing the rule of law, building up a justice system, rooting out corruption and so on. By doing that slowly but with conviction, we can achieve great things in Ukraine.

Other members mentioned tensions between different population groups. Huge tensions mounted in the Crimea in the early 1990s involving the Crimean Tatars. Those problems were solved by working slowly and steadily on the basis of the rule of law. Tatars still face huge social problems, but the tensions that caused the political upheaval were resolved with the help of European institutions – the Council of

Europe and the Organisation for Security and Co-operation in Europe – simply by focusing on our core tasks.

Of course, the task in Ukraine is inspired not just by the need to do what the Ukrainian people want; but by the need to do what is right for Europe. I profoundly believe that there can be no stability in Europe if there is no stability in Ukraine. A Ukraine that is democratic – where the rule of law is prevalent, where the people can trust their institutions and where corruption is rooted out – will be a strong partner in Europe and a haven of stability. That is what we need. We must ensure that our Europe is not a place where new divisions arise between east and west, but that could arise if Ukraine does not stay on the path of democracy and the rule of law.

Again, I commend the rapporteurs on their excellent work. I hope that they continue in the same vein because we must work at achieving the core tasks of our Organisation. That will do us and our Organisation credit. A stable and democratic Ukraine will be one of our most important partners at the heart of Europe.

THE PRESIDENT. – Thank you, Mr Timmermans. I call Mrs Vermot-Mangold.

Mrs VERMOT-MANGOLD (*Switzerland*) said that she believed illegal trafficking in human beings, including for intercountry adoption, was occurring from Ukraine to western European countries, particularly Italy, Germany, Switzerland and France. Her discussions with a Swiss organisation which helped Ukrainian women who had been the subject of illegal trafficking suggested that the roots of the problem lay deep in societal attitudes to the role of women in Ukraine. The Assembly must help Ukraine crack down on trafficking. Criminal organisations must be properly pursued and prosecuted. Destination countries should improve the assistance they provide to victims and help them return to Ukraine. Transit countries also had a role to play. Ukraine must be afforded economic assistance to help end illegal trafficking. The Assembly must ensure all member states ratified the Convention on Action against Trafficking in Human Beings.

She was also concerned about the disappearance of babies in Ukraine. Mothers were told that they had miscarried or that their babies had died. They then had no right to view or bury the corpses. Illegal adoption networks appeared to operate, although some adoptions were arranged legally. Ukraine should agree to accept the presence of foreign experts who could analyse the DNA of exhumed corpses; the exhumations had already been approved but the mothers objected to the use of Russian experts. Adoption must be properly regulated in Ukraine.

THE PRESIDENT. – Thank you. I call Mrs Tevdoradze.

Mrs TEVDORADZE (*Georgia*) recalled the similarities between the Georgian and Ukrainian revolutions, and said that she was encouraged that President Yushchenko had not ignored evidence of corruption in his government, as demonstrated when he dismissed his ministers.

The progress made in Ukraine over the last nine months was impressive, especially given events during the preceding 14 years. She was sure that those who had demonstrated in Independence Square would not allow the democratic reforms to be reversed. President Yushchenko's anti-corruption measures were now bearing fruit and could be built on during the next parliament. Reform of the judiciary, the public prosecutor's office and the police were crucial to the future success of those measures. It was disappointing to see the vestiges of the Soviet system in these institutions.

She disagreed with Mr Hancock about the importance of the Gongadze case. It was essential to discover who had commissioned the crime. Only then would ordinary citizens be sure that their rights were being respected. She wished Ukraine well.

THE PRESIDENT. – Thank you.

Before we continue the debate, let me remind members that voting in the ballot for the election of the Council of Europe Commissioner for Human Rights will close at 1 p.m.

I call Mr Rigoni.

Mr RIGONI (*Italy*) said that he had expected the report to make more explicit the connection between Ukraine's membership of the Council of Europe and the Orange Revolution. The Council of Europe's values had penetrated Ukrainian society and it had therefore been possible for citizens to seize the earliest possible opportunity to displace the old regime. The Assembly was likely to make the most

impact by seeking to entrench its principles in member states and this would be essential to the future of the institution and other aspects of the Council of Europe.

The elections in Ukraine in spring 2006 would be an important test for the country's leaders. He believed that any shortcomings in Ukraine should be capable of being resolved in the coming years. A special representative to Ukraine should be appointed to ensure there was no reversal of the progress already made towards the establishment of democratic institutions and the embedding of the rule of law. This would also help consolidate progress.

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

Mr SEVERIN (*Romania*). – Ukraine is obviously a very important country, and in my opinion it is a fully, clearly European country with a European society and culture. Europe needs Ukraine – we welcome it to our family – and Ukraine certainly needs Europe.

The democracy in Ukraine already owes much to the support of the Council of Europe, and to European support as a whole. We must continue to provide that support. The splendid work of our two rapporteurs is proof that we are genuinely engaged, intellectually, politically and emotionally – and I do not intend “emotionally” to have a negative connotation.

We must express our respect and admiration for the splendid popular uprising in Kiev. It was, and is, a source of hope and optimism for us all. The importance of that optimism corresponds to the importance of Ukraine, and of Ukrainian society. But a revolution, whatever its colour, is not only a demonstration against fraud in elections; it is much more than that. Nor do free and fair elections constitute everything about democracy. Democracy is much more than free and fair elections.

I agree with colleagues who have said that, following the fortunate events of last December, we must continue to be involved and to help. I have never been in favour of mere criticism without substance, but I also believe that we should not be led by triumphalism and wishful thinking when assessing what is going on in Ukraine. The best support will result from our keeping our eyes open and telling the truth to our Ukrainian friends and colleagues. The best friendship involves telling the truth and not closing our eyes. The rapporteurs have identified a number of steps that can be taken in that regard.

It is important to establish the right equilibrium between the state institutions, and I think that a parliamentary rather than a presidential system is appropriate in Ukraine. The rights of minorities are also extremely important, and I do not think that the present situation is entirely satisfactory. Relations with neighbours are not always tackled as part of human rights, the rule of law and democracy, but they too are important. When I speak of neighbours I obviously have in mind my own country, Romania, but this also applies to Moldova. More co-operation is needed, which should include support for a solution in Transnistria.

The rapporteurs rightly mentioned media freedom, and I think we must do more about that. As for corruption, Ukraine is not the only country with that problem, but it is a serious problem in an oligarchic system.

For as long as all those problems are not tackled, we cannot speak of revolutionary changes. There is evolution, and we must welcome that, but we must bear in mind the points that I have made and the points made in the report. We must continue our efforts to move forward, along with our Assembly colleagues who wish to join us in those efforts. Only then can we speak of a real revolutionary change, whose colour is not important.

THE PRESIDENT. – Thank you. The final speaker is Mr Sasi.

Mr SASI (*Finland*). – I always remember what happened when I was monitoring the first and second rounds of the presidential elections. People were afraid and there was no trust in the political or voting systems. We all noticed the lack of freedom of the press, and that is why many rumours were spread. I remember on the Monday of the second round of the elections standing in the central square in Kiev and seeing the people there with their orange flags. I felt that they were a strong and positive power that forced the country to a third round of the elections. That confirmed my view that public opinion will finally and always win.

The Orange Revolution gave Ukraine a good chance to go ahead in a positive fashion. However there is an in-built problem. There were only presidential elections and not elections to the parliament or in the rest of the system.

The very good report written by the rapporteurs tells us of the important improvements that have been made in the country. There is now quite a good degree of freedom of the press, but it would be better if there were much more private ownership of the press and especially the printed media. That means that there must also be transparency of ownership so that we know who is ultimately accountable. Many legislative reforms have been carried out and they are listed in the report. We have to welcome them. Many good promises have also been given to us.

A national consensus is important in Ukraine. The country has to be rebuilt and we know that, in all the countries where there is an internal struggle, the ordinary man on the street is easily forgotten and that developments do not take place. I wish to emphasise two issues: economic reform and judicial reform. They are both important.

Ukraine must rapidly become a real market economy. If that does not happen, there will be no economic progress. People will not enjoy prosperity and they will lose their faith in the political system again. Economic reform is the country's first priority. People must be able to understand what is happening in the economy and the system must be credible. If it is not, people will not be prepared to invest in the country. Another central point is that Ukraine must end corruption. There can be no functioning economy if there is huge corruption. The country must focus on that.

On judicial reform, one must ensure the independence of the court system, which must be effective and produce results. Parties should be adequately represented, and that is why the country needs a professional Bar association. When a judgment is made, it must be enforced. If it is not, people's rights will not be respected. In that sense, the speedy implementation of the decisions of the European Court of Human Rights is important. If its decisions are respected, that shows that basic human rights are being respected.

The next parliamentary elections will be a real test of whether the system is democratic and open, subject to good press coverage and technically efficient. They will be a democratic test in that the elections will provide an opportunity to speed up the reform of the country. In that regard, it would be helpful if Ukraine implemented its obligations to the Council of Europe.

It is very good to make promises, but you cannot live on them for very long. That is why it is important that Ukraine carries out its duties and keeps the promises that it has made as soon as possible. I trust that it will do that.

THE PRESIDENT. – Thank you. That concludes the list of speakers.

I call Mrs Severinsen and Mrs Wohlwend, the co-rapporteurs, to reply. They have four minutes between them.

Mrs SEVERINSEN (*Denmark*). – I thank colleagues for a good debate. I know that I speak on behalf of my co-rapporteur when I thank the Ukrainian delegation. We have received co-operation from it for many years. I refer especially to Mr Oliynyk, the head of the delegation, who has fought for monitoring and who has assisted us. We have been good colleagues, and one of the good things about the monitoring system is that it involves dialogue between colleagues. We have had that over the past 10 years.

I also wish to thank the Secretariat. The 99 pages of the report would not have been possible without the wonderful work of Mrs Ivi-Triin Odrats and Mr Dmytro Kotylar of the Secretariat. They worked very hard, and we now have a useful road map.

I wish Ukrainian democracy the best of luck for the future. The Ukrainian people deserve a European form of democracy, and that is what they want.

THE PRESIDENT. – Thank you. I now call Mrs Wohlwend.

Mrs WOHLWEND (*Liechtenstein*) said she wished to make a couple of points. Some speakers had questioned how long it would take Ukraine to implement the report's recommendations. They were all aware that it would take time before Ukraine was able to fulfil the Assembly's vision for the nation. She felt that the question regarding the conflict of languages between Russia and Ukraine could not be addressed adequately during a short debate. However, she noted that Ukraine had taken an important step by ratifying the Charter for Regional or Minority Languages. She had considered whether it was appropriate to raise individual cases of injustice in the report but had concluded that by doing so both those cases, and others, could be taken up.

THE PRESIDENT. – Thank you, Mrs Wohlwend. Does the chairperson of the committee wish to speak? If so, Mr Frunda, you have two minutes.

Mr FRUNDA (*Romania*). – I remember Mr Yushchenko's speech in the hemicycle, which was full at the time. We accepted with good will his promises, one of which was on the Gongadze case. I am convinced, as a politician and as a lawyer, that the way in which the president of a state fulfils his commitments sets the direction in which the country will go. At the same time, it is a demonstration of how sincere the president is and how effective he will be in future.

In the Gongadze case, there are three policemen before the court. Nothing is said about who was behind the crime, about who ordered the car and about the connection between the politicians, the policemen and Gongadze. What are the links? What happened during the revolution? We do not have evidence of that. We cannot say that we are satisfied with that.

I congratulate our two rapporteurs, who are often in Ukraine. They did a wonderful job in producing a deeply rooted report and updated it. For example, Amendment No. 9 goes to the core of the report. If Ukraine is serious and if it wants to be treated as a real partner and as a friend, we cannot say that everything is all right in the country. The Gongadze case is not clear and it is not open to everybody in Ukraine and to us.

THE PRESIDENT. – Thank you, Mr Frunda.

The Monitoring Committee has presented a draft resolution to which 26 amendments have been tabled. They will be taken in the order in which they appear in the notice paper.

I remind members that speeches on amendments are limited to one minute.

We come to Amendment No. 2, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, at the end of paragraph 3, add the following sentence:

"The Assembly urges the Ukrainian authorities to carry on with the reform process and not to let political competition jeopardise the country's development."

I call Mrs Severinsen to support the amendment.

Mrs SEVERINSEN (*Denmark*). – We want the sentence that is set out in the amendment because of recent happenings in Ukraine. We urge the Ukraine authorities to carry on with reform and not to allow political competition to jeopardise the country's development. I hope that with the proposed sentence we send a signal that the reform process should not be blocked.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 2 is adopted.

We come to Amendment No. 3, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 4, replace the words "President and Government" with the word: "authorities".

I call Mrs Severinsen to support Amendment No. 3.

Mrs SEVERINSEN (*Denmark*). – This is a technical amendment. There is a new government in Ukraine. To avoid confusion about what government we are referring to, we seek to replace "President" and "Government" with "authorities". This will be added to the positive list.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 3 is adopted.

We come to Amendment No. 4, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, after paragraph 6.11, add the following sub-paragraph:

“the ratification procedure with regard to the European Charter for Regional or Minority Languages was finally concluded in September 2005;”.

I call Mrs Severinsen to support Amendment No. 4.

Mrs SEVERINSEN (*Denmark*). – The European Charter for Regional or Minority Languages has been ratified and we wish to add it to the positive list.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 4 is adopted.

We come to Amendment No. 5, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, replace paragraph 6.12 with the following sub-paragraph:

“the European Agreement relating to persons participating in proceedings of the European Court of Human Rights, the Civil Law Convention on Corruption and the Convention on Cybercrime were ratified in November 2004, March 2005 and September 2005 respectively.”

I call Mrs Severinsen to support Amendment No. 5.

Mrs SEVERINSEN (*Denmark*). – This is also an addition to the positive list. There has been ratification of the Convention on Cybercrime.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 5 is adopted.

We come to Amendment No. 6, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 7, replace the second sentence with the following sentence:

“The new leadership has furthermore committed itself to fighting corruption and human trafficking, and tackling the problem of torture and ill-treatment.”

I call Mrs Severinsen to support Amendment No. 6.

Mrs SEVERINSEN (*Denmark*). – As with Amendment No. 2, this amendment refers to recent events in Ukraine when there were allegations of high-level corruption. It would be correct to say that so far the new authorities have committed themselves only to fight corruption. We refer to the problems of torture and ill-treatment so that the necessary commitments are set out in the document.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 6 is adopted.

We come to Amendment No. 7, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 8, replace the word “also” with the words: “first of all”.

I call Mrs Severinsen to support Amendment No. 7.

Mrs SEVERINSEN (*Denmark*). – It might seem strange that it is so important to replace “also” with “first of all”. Recently, a political memorandum was signed that granted an amnesty to those who violated election procedures last year. We do not think that the relevant document should be mentioned in the resolution. However, by inserting “first of all” we underline that those who organise election violations should be pardoned. The amendment gives a hint.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 7 is adopted.

We come to Amendment No. 8, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, delete paragraph 10.

I call Mrs Severinsen to support Amendment No. 8.

Mrs SEVERINSEN (*Denmark*). – As the Assembly will know, we think that constitutional reform is extremely important. By deleting the paragraph, we seek to place more emphasis on constitutional reform. I hope that the amendment will be supported.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 8 is adopted.

We come to Amendment No. 9, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, after paragraph 10, insert the following paragraph:

“Five years after the disappearance and murder of the journalist Gongadze, the Assembly is dissatisfied that after the indictment in March 2005 of the alleged direct perpetrators of the murder, the investigation of the case has stalled, in particular as regards the prosecution of those who ordered and organised this crime. It regrets that the case of those who allegedly executed the murder has been separated from the main case-file and has been qualified as a murder committed by a group of persons following their prior collusion, which is seen as a step towards excluding from the prosecution the masterminds and organisers. In addition, the advocate of Mrs Gongadze has been suspended; no inquiry into the previous ineffective investigation of the case has been conducted; and the law enforcement bodies failed to prevent the death of the former Minister of the Interior, who committed suicide in suspicious circumstances, and to apprehend General Pukach, who is suspected of being the link to masterminds, etc. The Ukrainian authorities have also failed, so far, to implement the provisions of the Assembly’s resolutions requesting a new investigation into the case of Mr Yeliashkevych and a credible examination of the Melnychenko recordings.”

I call Mrs Severinsen to support Amendment No. 9.

Mrs SEVERINSEN (*Denmark*). – This is an important amendment. There have been promises that the Gongadze case will be solved. Recently, however, there has been alarming news that the prosecutor's office wants to end the investigation on the basis of the evidence of the three policemen who, according to the prosecutor's office, together with General Pukach, who has fled, killed Gongadze without any orders from the outside. We shall insist that those who organised and executed the murder must be brought to justice. That is why we suggest this text.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – Strongly in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 9 is adopted.

We come to Amendment No. 10, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 12.4, replace the words "exclude the control of public authorities over any other mass media outlets" with the following words: "start privatisation of the printed media outlets founded by public authorities".

I call Mrs Severinsen to support Amendment No. 10.

Mrs SEVERINSEN (*Denmark*). – This is a clarification, and we have discussed it with the Ukrainian delegation and agreed it, so I hope that the Assembly will support it. It is needed to clarify the fact that the printed mass media should not be owned by public authorities but should eventually be privatised.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 10 is adopted.

We come to Amendment No. 11, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, at the end of paragraph 12.4, add the following words: "; ensure that the new version of the law on television and radio broadcasting is in line with Council of Europe standards and with the recommendations of its experts".

I call Mrs Severinsen to support Amendment No. 11.

Mrs SEVERINSEN (*Denmark*). – We want to ensure that the new version of the law on television and radio broadcasting is in line with the Council of Europe standards and the recommendation of its experts. The Council of Europe had made specific recommendations on the draft law, which should be taken into account, and that is what we are asking for here.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 11 is adopted.

We come to Amendment No. 12, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.5, delete the words "continue to".

I call Mrs Severinsen to support Amendment No. 12.

Mrs SEVERINSEN (*Denmark*). – Many promises were made that the security services would be reformed, but so far we cannot see many results, so that is why we want to delete the words “continue to”.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 12 is adopted.

We come to Amendment no. 13, tabled by Mrs Hanne Severinsen, Mr Luć Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.7, after the word “establishments”, insert the following words: “and detention facilities”.

I call Mrs Severinsen to support Amendment No. 13.

Mrs SEVERINSEN (*Denmark*). – This is another technical amendment to ensure that we are talking about conditions not only in prisons but elsewhere, including detention centres.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 13 is adopted.

We come to Amendment No. 14, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.7, after the words “(paragraph 11.vii);”, insert the following words: “establish an independent body at the national level to monitor places of detention and”.

I call Mrs Severinsen to support Amendment No. 14.

Mrs SEVERINSEN (*Denmark*). – Amnesty International recently published a report recommending an independent body at international level to monitor places of detention, and the amendment is in support of that.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 14 is adopted.

We come to Amendment No. 15, tabled by Mrs Hanne Severinsen, Mr Luć Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad and Mr Göran Lindblad, which is in the draft resolution, paragraph 13.10, after the words “ensure full and speedy implementation of the decisions of the European Court of Human Rights”, insert the following words: “, in particular in the cases of Sovtransavto and Melnychenko”.

I call Mrs Severinsen to support Amendment No. 15.

Mrs SEVERINSEN (*Denmark*). – It is important that the judgments from the European Court of Human Rights should be enforced without undue delay, and these cases are good examples. Ukraine still has to adopt general measures to enforce such judgments, so that is what we are asking for.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 15 is adopted.

We come to Amendment No. 25, tabled by Mr Andreas Gross, Mr Christos Pourgourides, Mr Rudolf Bindig, Mr Boriss Cilevičs and Mrs Ruth-Gaby Vermot-Mangold, which is, in the draft resolution, at the end of paragraph 13.11, insert the following words: “and ensure reparation to victims or their families”.

I call Mr Gross to support Amendment No. 25.

Mr GROSS (*Switzerland*). – This is a small technical point: we should also ensure that the families of victims are compensated for their losses.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 25 is adopted.

We come to Amendment No. 26, tabled by Mr Andreas Gross, Mr Christos Pourgourides, Mr Rudolf Bindig, Mr Boriss Cilevičs and Mrs Ruth-Gaby Vermot-Mangold, which is, in the draft resolution, paragraph 13.12, after the word “procedure”, insert the following words: “in accordance with international standards, including guaranteeing all detainees prompt and regular access to lawyers and to a doctor of their choice, and ensuring that all detainees have their relatives promptly informed of their whereabouts”.

This amendment has been revised in the French version.

I call Mr Gross to support Amendment No. 26.

Mr GROSS (*Switzerland*). – Just as we should not forget the rights of victims, we should not forget the rights of the detainees either.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 26 is adopted.

We come to Amendment No. 16, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson, Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.12, replace the word “banning” with the following words: “which allow the prosecution to ban”.

I call Mrs Severinsen to support Amendment No. 16.

Mrs SEVERINSEN (*Denmark*). – This is a technical correction, to clarify what we already have in the draft resolution.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – In favour.

THE PRESIDENT. – The vote is open.

Amendment No. 16 is adopted.

We come to Amendment No. 1, tabled by Mr Serhiy Holovaty, Mrs Helena Bargholtz, Mr Stef Goris, Mrs Elene Tevdoradze and Mr Josef Jařab, which is, in the draft resolution, at the end of paragraph 13.12, add the following words: “, as incompatible with the standards of the Council of Europe”.

I call Mr Holovaty to support Amendment No. 1.

Mr HOLOVATY (*Ukraine*). – Under the Kuchma regime, a law was adopted that allowed the prosecutor’s office to ban a lawyer from practising the law. It allows the prosecutor’s office to launch a criminal prosecution of a lawyer. That is incompatible with European standards and the aim of the paragraph is to abrogate that law.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – Mr Holovaty is a former Minister of Justice in Ukraine and is well placed to know what we should do. The committee is in favour of the amendment.

THE PRESIDENT. – The vote is open.

Amendment No. 1 is adopted.

We come to Amendment No. 17, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, at the end of paragraph 13.12, add the following words: “; ensure that state officials making public statements respect the presumption of innocence;”.

I call Mrs Severinsen to support Amendment No. 17.

Mrs SEVERINSEN (*Denmark*). – The amendment relates to the presumption of innocence. The new authorities in Ukraine have made many statements in which the presumption of innocence has not been respected. For example, Mr Yushchenko said in March that Gongadze’s killers would be detained without being charged with a crime. It is important to remember the principle of the presumption of innocence.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 17 is adopted.

We come to Amendment No. 27, tabled by Mr Bohdan Kostynuk, Mr Boris Oliynyk, Mr Oleksandr Karpov, Mr Mykhailo Hladiy, Mr Volodymyr Rybak and Mr Orest Klympush, which is, in the draft resolution, delete paragraph 13.14.

I call Mr Kostynuk to support Amendment No. 27.

Mr KOSTYNUK (*Ukraine*) said that the provisions of Ukrainian law were not sufficiently in line with the standards of the European Convention on Human Rights.

THE PRESIDENT. – Does anyone wish to speak against the amendment?

I call Mrs Severinsen.

Mrs SEVERINSEN (*Denmark*). – It is necessary to establish effective control of eavesdropping by law enforcement bodies and to adopt a special law to that effect. We want the paragraph to remain in place.

THE PRESIDENT. – What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is against the amendment. We should adopt Mrs Severinsen's position because we need a law in accordance with European standards.

THE PRESIDENT. – The vote is open.

Amendment No. 27 is rejected.

We come to Amendment No. 18, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad and Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.15, replace the words "consider the case solved only after those who ordered, organised and executed the murder are brought to justice, i.e. subjected to a fair trial before a criminal court" with the following words: "consider the investigation completed only when the case, which includes the indictments against all those who ordered, organised and executed the murder, is sent to court".

I call Mrs Severinsen to support Amendment No. 18.

Mrs SEVERINSEN (*Denmark*). – It is important that we consider the investigation complete only when those who were involved in committing the crime against Gongadze are caught.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 18 is adopted.

We come to Amendment No. 19, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.15, after the word "previous", insert the following words: "and current".

I call Mrs Severinsen to support Amendment No. 19.

Mrs SEVERINSEN (*Denmark*). – The first text of the draft resolution criticised the previous investigation into the Gongadze case. We also need to criticise recent developments.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 19 is adopted.

We come to Amendment No. 20, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad and Mr Göran Lindblad, which is, in the draft resolution, paragraph 13.16, replace the words "allow the Verkhovna Rada's ad hoc inquiry commission on the Gongadze and other high-profile cases to present its findings to the parliament's plenary meeting" with the following words: "hold as soon as possible a parliamentary hearing, open-to-the-public, on the Gongadze case in the Verkhovna Rada of Ukraine".

I call Mrs Severinsen to support Amendment No. 20.

Mrs SEVERINSEN (*Denmark*). – The amendment updates the report. We have now discussed establishing an ad hoc committee and call on parliament to hold a public hearing on the Gongadze case.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is strongly in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 20 is adopted.

We come to Amendment No. 21, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft resolution, delete paragraph 13.20.

I call Mrs Severinsen to support Amendment No. 21.

Mrs SEVERINSEN (*Denmark*). – The amendment relates to positive and negative lists, and the need to take account of minority languages.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 21 is adopted.

We come to Amendment No. 22, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad and Mr Göran Lindblad, which is, in the draft resolution, after paragraph 13.22, insert the following paragraph:

“The Assembly recalls its Resolutions 1346 (2003) and 1364 (2004), where it emphasised that all provisions of the constitution in force should be thoroughly respected and that the recommendations of the Venice Commission should be fully taken into account within the process of amending the Constitution of Ukraine. It deeply regrets that the constitutional amendments of 8 December 2004, adopted as part of a package deal to halt the political turmoil, contained provisions which the Venice Commission has repeatedly found incompatible with the principles of democracy and the rule of law, in particular with regard to the imperative mandate of people’s deputies and the powers of the prosecutor’s office. The Assembly is also concerned that the new constitutional changes were adopted without prior consultation with the Constitutional Court, as envisaged by Article 159 of the Ukrainian Constitution and interpreted in the Constitutional Court of Ukraine’s decision of 1998. Therefore, the Assembly urges the Ukrainian authorities to address these issues as soon as possible, in order to secure the legitimacy of the constitutional amendments and their compliance with European standards.”

I call Mrs Severinsen to support Amendment No. 22.

Mrs SEVERINSEN (*Denmark*). – We removed the paragraph on the constitution so that we could strengthen it. We have improved the text and it is now finalised.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 22 is adopted.

We come to Amendment No. 28, tabled by Mr Bohdan Kostynuk, Mr Boris Oliynyk, Mr Oleksandr Karpov, Mr Mykhailo Hladiy, Mr Volodymyr Rybak, Mr Orest Klympush and Mr Serhiy Holovaty, which is, in the draft resolution, paragraph 14, after the words “and to return to the assessment of Ukraine’s compliance with its obligations and commitments”, insert the following words: “, and to consider the possibility of moving over to a post-monitoring dialogue with the Ukrainian authorities.”

I call Mr Kostynuk to support Amendment No. 28.

Mr KOSTYNUK (*Ukraine*) said that it would be appropriate to move to a post-monitoring dialogue with Ukraine.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 28 is adopted.

We will now proceed to vote on the whole of the draft resolution contained in Document 10676, as amended.

The vote is open.

The draft resolution in Document 10676, as amended, is adopted.

The Monitoring Committee has also presented a draft recommendation to which four amendments have been tabled. They will be taken in the following order: 29, 23, 24 and 30.

We come to Amendment No. 29, tabled by Mr Bohdan Kostynuk, Mr Boris Oliynyk, Mr Oleksandr Karpov, Mr Mykhailo Hladiy, Mr Volodymyr Rybak, Mr Orest Klympush and Mr Serhiy Holovaty, which is, in the draft recommendation, paragraph 2.3, replace the words “intensify co-operation activities” with the following words: “with the view of providing the Ukrainian authorities with comprehensive assistance for the building up of an open and democratic society, intensify co-operation activities, in particular”.

I call Mr Kostynuk to support Amendment No. 29.

Mr KOSTYNUK (*Ukraine*) said this was a drafting amendment to clarify the text.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No.29 is adopted.

We come to Amendment No. 23, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft recommendation, at the end of paragraph 2.3, add the following words: “, and training of judges, police and prosecutors”.

I call Mrs Severinsen to support Amendment No. 23.

Mrs SEVERINSEN (*Denmark*). – The amendment simply provides clarification, in that we wanted to mention especially the training of judges, police and prosecutors.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 23 is adopted.

We come to Amendment No. 24, tabled by Mrs Hanne Severinsen, Mr Luc Van den Brande, Mr Rudolf Bindig, Mr André Kvakkestad, Mr Mats Einarsson and Mr Göran Lindblad, which is, in the draft recommendation, paragraph 2.4.1, delete the words “and to finalise the internal process allowing ratification of the European Charter for Regional or Minority Languages”.

I call Mrs Severinsen to support Amendment No. 24.

Mrs SEVERINSEN (*Denmark*). – This is another technical amendment connected with the European Charter for Regional or Minority Languages.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 24 is adopted.

We come to Amendment No. 30, tabled by Mr Bohdan Kostynuk, Mr Boris Oliynyk, Mr Oleksandr Karpov, Mr Mykhailo Hladiy, Mr Volodymyr Rybak, Mr Orest Klympush and Mr Serhiy Holovaty, which is, in the draft recommendation, paragraph 3, after the word “current”, delete the word “political”.

I call on Mr Kostynuk to support Amendment No. 30.

Mr KOSTYNUK (*Ukraine*) said the presence of a special representative might imply there were more problems in Ukraine now than in the past. That was not the case.

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

What is the opinion of the committee?

Mr FRUNDA (*Romania*). – The committee is in favour.

THE PRESIDENT. – The vote is open.

Amendment No. 30 is adopted.

We will now proceed to vote on the whole of the draft recommendation contained in Document 10676, as amended. I remind you that a two-thirds majority is required for the adoption of a recommendation.

The vote is open.

The draft recommendation in Document 10676, as amended, is adopted.

Although we are about to conclude this morning's proceedings, I remind members that the ballot remains open for the second round of the election of the Council of Europe Commissioner for Human Rights until 1 p.m. I remind the tellers that they need to go to Room 1087 at 1 p.m. The result of the election will be announced at the start of this afternoon's sitting.

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

THE PRESIDENT. – I propose that the Assembly hold its next public sitting this afternoon at 3 p.m., with the orders of the day which were approved on Monday.

Is that agreed?

It is agreed.

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

(The sitting was closed at 12.25 p.m.)

CONTENTS

1. Minutes of proceedings
2. Voting cards and the register of attendance
3. Elections of the Council of Europe Commissioner for Human Rights [second round]
4. Honouring of obligations and commitments by Ukraine

Presentation by Mrs Severinsen and Mrs Wohlwend of report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, Doc. 10676

Speakers:

Mrs Hoffman (Germany)
Mr Van den Brande (Belgium)
Mr Mollazade (Azerbaijan)
Mrs Oskina (Russian Federation)
Mr Christodoulides (Cyprus)
Mr Slutsky (Russian Federation)
Mr Herkel (Estonia)
Mr Oliynyk (Ukraine)
Mr Kostenko (Ukraine)
Mr Hancock (United Kingdom)
Mr Gruber (Hungary)
Mrs Vésaitė (Lithuania)
Mr Timmermans (Netherlands)
Mrs Vermot-Mangold (Switzerland)
Mrs Tevdoradze (Georgia)
Mr Rigoni (Italy)
Mr Severin (Romania)
Mr Sasi (Finland)

Replies:

Mrs Severinsen (Denmark)
Mrs Wohlwend (Liechtenstein)
Mr Frunda (Romania)

Amendments Nos. 2 to 15,, 25, 26, 16, 1, 17, 18 to 22 and 28 adopted

Draft resolution, as amended, adopted

Amendments Nos. 29, 23, 24 and 30 adopted

Draft recommendation, as amended, adopted

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