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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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3 – 7 October 2005

TEXTS ADOPTED

BY

THE ASSEMBLY

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by the Assembly
(3 – 7 October 2005)

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Co-development policy as a positive measure to regulate migratory flows

Recommendation 1718 (2005)[1]

1. The Parliamentary Assembly refers to its Resolution 1462 (2005) on co-development policy as a positive measure to regulate migratory flows.

2. The Assembly considers that international co-operation regarding migration and development should be further developed with a view to promoting co-development policies and projects, maximising the benefits for all partners involved.

3. Therefore, the Assembly recommends that the Committee of Ministers:

3.1. ask the relevant intergovernmental committee to work out, in co-operation with relevant bodies, policy guidelines for migration and co-development;

3.2. encourage the North-South Centre to make migration and co-development one of its principal programme areas;

3.3. consider how the Council of Europe Development Bank could be involved in the financing of co-development projects;

3.4. invite the Secretary General of the Council of Europe to continue to address the issue of co-development and migration in the Organisation's programmes of activities.

[1] *Assembly debate* on 3 October 2005 (25th Sitting) (see Doc. 10654, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Salles). *Text adopted by the Assembly* on 3 October 2005 (25th Sitting).

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Enforced disappearances

Recommendation 1719 (2005)[1]

1. The Parliamentary Assembly, referring to its Resolution 1463 (2005), invites the Committee of Ministers to express its support for the adoption, by the United Nations' Commission on Human Rights, of a binding international instrument for the protection of all persons from enforced disappearance.

2. The Committee of Ministers is invited to stress, in particular, the need for the future instrument to provide for :

2.1. a clear definition of enforced disappearances wide enough to cover also non-State actors;

2.2. the recognition of close relatives as victims in their own right and to grant them a "right to the truth";

2.3. effective measures against impunity;

2.4. appropriate preventive measures;

2.5. a comprehensive right to reparation including restitution, rehabilitation, satisfaction and compensation;

2.6. a strong international monitoring mechanism, including an urgent intervention procedure.

3. It further invites the Committee of Ministers to examine the future UN instrument in due course with a view to ascertaining whether the essential elements presented in paragraph 2 have been duly taken into account, and if need be, to envisage appropriate action in the framework of the Council of Europe in order to fill any remaining gaps.

4. Finally, it urges the Committee of Ministers to revert to the issue of the disappearances in Belarus and decide on stronger and more effective measures than those referred to in its reply to Recommendation 1657 (2004).

[1] *Assembly debate* on 3 October 2005 (25th Sitting) (see Doc. 10679, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). *Text adopted by the Assembly* on 3 October 2005 (25th Sitting).

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Education and religion

Recommendation 1720 (2005)[1]

1. The Parliamentary Assembly forcefully reaffirms that each person's religion, including the option of having no religion, is a strictly personal matter. However, this is not inconsistent with the view that a good general knowledge of religions, and as a result a sense of tolerance, are essential to the exercise of democratic citizenship.

2. In its Recommendation 1396 (1999) on religion and democracy, the Assembly asserted: "There is a religious aspect to many of the problems that contemporary society faces, such as intolerant fundamentalist movements and terrorist acts, racism and xenophobia, and ethnic conflicts".

3. The family has a paramount role in the upbringing of children, including in the choice of a religious upbringing. However, knowledge of religions is dying out in many families. More and more young people lack the necessary bearings fully to apprehend the societies in which they move and others with which they are confronted.

4. The media – printed and audiovisual – can have a highly positive informative role. Some, however, especially among those aimed at the wider public, very often display a regrettable ignorance of religions, as shown for instance by the frequent unwarranted parallels drawn between Islam and certain fundamentalist and radical movements.

5. Politics and religion should be kept apart. However, democracy and religion should not be incompatible. In fact they should be valid partners in efforts for the common good. By tackling societal problems, the public authorities can eliminate many of the situations which can lead to religious extremism.

6. Education is essential for combating ignorance, stereotypes and misunderstanding of religions. Governments should also do more to guarantee freedom of conscience and religious expression, to foster education on religions, to encourage dialogue with and between religions and to promote the cultural and social expression of religions.

7. School is a major component of education, of forming a critical spirit in future citizens and of intercultural dialogue. It lays the foundations for tolerant behaviour, founded on respect for the dignity of each human being. By teaching children the history and philosophy of the main religions with restraint and objectivity and with respect for the values of the European Convention on Human Rights, it will effectively combat fanaticism. Understanding the history of political conflicts in the name of religion is essential.

8. Knowledge of religions is an integral part of knowledge of the history of mankind and civilisations. It is altogether distinct from belief in a specific religion and its observance. Even countries where one religion plainly predominates should teach about the origins of all religions rather than favour a single one or encourage proselytising.

[1] *Assembly debate* on 4 October 2005 (27th Sitting) (see Doc. 10673, report of the Committee on Culture, Science and Education, rapporteur: Mr Schneider). *Text adopted by the Assembly* on 4 October 2005 (27th Sitting).

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9. In Europe, there are various concurrent situations. Education systems generally – and especially the State schools in so-called secular countries – are not devoting enough resources to teaching about religions, or – in countries where there is a state religion and in denominational schools – are focusing on only one religion. Some countries have prohibited the carrying or wearing of religious symbols in schools. These provisions have been judged as complying with the European Convention on Human Rights.

10. Unfortunately, all over Europe there is a shortage of teachers qualified to give comparative instruction in the different religions, so a European teacher training institute for that needs to be set up (at least for teacher trainers), which could benefit from the experience of a number of institutes and faculties in the different member countries that have long been researching and teaching the subject of comparative religion.

11. The Council of Europe assigns a key role to education in the construction of a democratic society, but study of religions in schools has not yet received special attention.

12. The Assembly observes moreover that the three monotheistic religions of the Book have common origins (Abraham) and share many values with other religions and that the values upheld by the Council of Europe stem from these values.

13. Accordingly, the Assembly recommends that the Committee of Ministers:

13.1. examine the possible approaches to teaching about religions at primary and secondary levels, for example through basic modules which would subsequently be adapted to the various educational systems;

13.2. promote initial and in-service teacher training in religious studies respecting the principles set out in the previous paragraphs;

13.3. envisage setting up a European teacher training institute for the comparative study of religions.

14. The Assembly also recommends that the Committee of Ministers encourage the governments of member states to ensure that religious studies are taught at the primary and secondary levels of State education, on the basis of the following criteria in particular:

14.1. the aim of this education should be to make pupils discover the religions practiced in their own and neighbouring countries, to make them perceive that everyone has the same right to believe that their religion is the "true faith" and that other people are not rendered any different as human beings by having a different religion or not having a religion at all;

14.2. it should include, with complete impartiality, the history of the main religions, as well as the option of having no religion;

14.3. it should provide young people with educational tools that enable them to be quite secure in approaching supporters of a fanatical religious practice;

14.4. it must not overstep the borderline between the realms of culture and worship, even where a country with a State religion is concerned. It is not a matter of instilling a faith but of making young people understand why religions are the sources of faith for millions;

14.5. teachers on religions need to have specific training. They should be teachers of a cultural or literary discipline. However, specialists in another discipline could be made responsible for this education;

14.6. the State should look after teacher training and lay down the syllabuses which should be adapted to each country's peculiarities and to the pupils' ages. In devising these programmes, the Council of Europe will consult all partners concerned, including representatives of the religious faiths.

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Functioning of democratic institutions in Moldova

Recommendation 1721 (2005)[1]

1. The Parliamentary Assembly refers to its Resolution 1465 (2005) on the functioning of democratic institutions in Moldova, in which it calls for decisive, comprehensive and irreversible progress with regard to the democratic standards and practices in the country, if it is to fulfil its European aspirations.

2. The Assembly recommends that the Committee of Ministers, with regard to assistance activities:

2.1. call on the Moldovan authorities to speed up reforms corresponding to the Council of Europe values and standards, in particular in the following priority areas: the functioning of democratic institutions, the independence and efficiency of the judiciary; freedom and pluralism of the electronic media; strengthening local democracy; better social protection accompanying strong economic performance and fighting corruption and trafficking of human beings and organs;

2.2. pursue or, where necessary, develop new assistance programmes in the above-mentioned fields and allocate the necessary budgetary resources.

3. The Assembly asks the Committee of Ministers, with regard to expertise, to:

3.1. require the Moldovan authorities to submit all draft legislation in the relevant areas to the Council of Europe for expertise prior to its adoption;

3.2. apply the right combination of expert advice and political pressure to ensure that the Council of Europe recommendations on new legislation are duly taken into account, thus avoiding the waste of resources on several variants of one and the same draft law;

3.3. work out a better system of follow-up of its legal expertise.

4. The Assembly expects that the Committee of Ministers, through its member states, the Council of Europe Development Bank and in active co-operation with the European Union Neighbourhood Policy, will support further economic and social reform in Moldova to the benefit of the entire population. The Assembly refers in this respect to its Recommendation 1605 (2003) on the economic development of Moldova: challenges and prospects.

5. The Assembly asks the Committee of Ministers to urge member states to support Moldova in its action to combat trafficking in human beings and organs. The Assembly refers in this connection to its Recommendations 1526 (2001), 1545 (2002) and 1554 (2002) on the functioning of the democratic institutions in Moldova, Recommendation 1611 (2003) on trafficking in organs and its various recommendations and resolutions on trafficking in human beings.

[1] *Assembly debate* on 4 October 2005 (27th Sitting) (see Doc. 10671, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mrs Durrieu and Mr Kvakkestad). *Text adopted by the Assembly* on 4 October 2005 (27th Sitting).

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6. The Assembly further requests that in its contacts at the highest political level with the relevant authorities of the European Union, the Committee of Ministers ensures the best possible co-ordination and complementarity between the Council of Europe requirements and those of the EU-Moldova Action Plan.

7. The Assembly further asks the Committee of Ministers to:

7.1. become involved in the political monitoring and assessment of all proposals for settling the Transnistrian conflict put forward by the various parties concerned;

7.2. ensure the participation of the Council of Europe in the ongoing consultations, as the necessary guarantee that these developments take account of the fundamental principles defended by the Council of Europe.

7.3. keep monitoring the full implementation of the decision of the European Court of Human Rights regarding the "Ilascu" case until the release of the political prisoners Andrei Ivantoc and Tudor Petrov Popa, illegally detained in Tiraspol.

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Honouring of obligations and commitments by Ukraine

Recommendation 1722 (2005)[1]

1. The Parliamentary Assembly refers to its Resolution 1466 (2005) on the honouring of obligations and commitments by Ukraine.

2. The Assembly recommends that the Committee of Ministers:

2.1. analyse the obstacles encountered by the Ukrainian authorities with regard to the ratification of Council of Europe Treaties as, since its accession ten years ago, Ukraine has ratified only 45 and signed 27 out of 200 Treaties (as of August 2005);

2.2. intensify co-operation activities to assist the Ukrainian authorities in the implementation of the European Charter of Local Self-Government, in order to strengthen the development of local democracy in Ukraine (both as regards the legislative and regulatory framework and the training of public servants of local self-government bodies);

2.3. with the view to providing the Ukrainian authorities with comprehensive assistance for the building up of an open and democratic society, intensify co-operation activities, in particular in the field of fight against corruption, reform of the prosecutor's office and independence of the judiciary, and training of judges, police and prosecutors;

2.4. invite the Ukrainian authorities:

2.4.1. to rapidly ratify Protocols Nos. 12 and 14 to the European Convention on Human Rights, the European Social Charter (revised), the Criminal Law Convention on Corruption, the European Convention on Transfrontier Television, the European Convention on Nationality;

2.4.2. to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Ukrainian legislation and practice with the Organisation's principles and standards, especially with regard to the standards embodied in the European Convention on Human Rights, as well as full compliance with the decisions of the European Court of Human Rights as regards the individual and general measures that may be required;

2.4.3. to submit to Council of Europe experts such as the European Commission for Democracy through Law (Venice Commission) any new draft amendments to the Constitution, draft legislation concerning the reform of the prosecutor's office, creation of a public service broadcasting, revision of the law on the Bar, legal aid, etc.

3. The Assembly, referring to its Resolution 1364 (2004), recommends that the Committee of Ministers and the Secretary General reinforce Council of Europe presence in Ukraine, in particular by designating a special representative of the Secretary General in Ukraine whose mandate should be to follow current developments in the country, to provide advice and Council of Europe expertise if and when needed and generally to enhance and co-ordinate the ongoing co-operation with the Ukrainian authorities.

[1] *Assembly debate* on 5 October 2005 (28th Sitting) (see Doc. 10676, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mrs Severinsen and Mrs Wohlwend). *Text adopted by the Assembly* on 5 October 2005 (28th Sitting).

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Forced marriages and child marriages

Recommendation 1723 (2005)[1]

1. The Parliamentary Assembly refers to its Resolution 1468 (2005) on forced marriages and child marriages and asks the Committee of Ministers to ensure its application by member states.

2. It recommends that the Committee of Ministers of the Council of Europe instruct the appropriate intergovernmental committee to make a thorough analysis of forced marriages and child marriages and devise a strategy encouraging member states to take the following specific action:

2.1. institute prevention campaigns in primary, secondary and upper secondary schools, suited to the age of the pupils targeted, informing them of their rights and especially the right to make up one's own mind with regard to marriage, the right to choose one's future partner and the right not to marry before 18 years of age, aiming both at a general audience and at those particularly concerned;

2.2. inform persons under threat of forced marriage of the practical steps to be taken to forestall marriage, such as placing one's passport in safe keeping, lodging a complaint of theft of papers in the event of confiscation and giving the address of the proposed holiday location;

2.3. provide emergency reception facilities where people liable to be forcibly married can be heard, cared for and accommodated, shielding them from the pressure brought to bear by others and from possible abduction;

2.4. financially support associations and other non-governmental organisations that assist and support, shelter and protect potential or actual victims;

2.5. aid victims in their physical and psychological recovery;

2.6. punish the persons who voluntarily participated in the forced or child marriage, including the perpetrator of rape;

2.7. punish the persons who aided and abetted the contracting of the forced or the child marriage, considering as an aggravating circumstance the victim's dependency on these persons;

2.8. check the validity of any marriage celebrated abroad, making its transcription subject to the presence of both spouses and authorising the diplomatic staff to interview either or both spouses beforehand;

2.9. for this purpose, ensure that public service staff, particularly in the judicial and the police force and social, diplomatic and consular services, are properly informed and trained to detect forced marriages;

2.10. put an end to the custom of pledges of marriage and child betrothals, including cases involving very young minors.

[1] *Assembly debate* on 5 October 2005 (29th Sitting) (see Doc. 10590, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Zapfl-Helbling and Doc. 10678, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Bargholtz). *Text adopted by the Assembly* on 5 October 2005 (29th Sitting).

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The Council of Europe and the European Neighbourhood Policy of the European Union

Recommendation 1724 (2005)[1]

1. The Parliamentary Assembly expresses its appreciation and support for the European Neighbourhood Policy (ENP) launched by the European Union (EU) in order to strengthen democratic stability, security and well-being in several EU neighbouring countries and prevent the emergence of a new division line in Europe.

2. The ENP concerns only those EU's neighbours which are not involved in the present accession or pre-accession procedure and covers 16 states (Belarus, Ukraine, Moldova, Georgia, Armenia, Azerbaijan, Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Jordan, Lebanon, Syria) as well as the Palestinian Authority. Five of these states are Council of Europe members, and the Parliament of one of them enjoys observer status with the Parliamentary Assembly. Russia, although not covered by the ENP, will be associated with certain partnership programmes in the framework of the strategic partnership between Russia and the EU.

3. The ENP offers to these countries a privileged and increasingly close relationship with the EU involving a significant degree of economic integration and political co-operation in return for concrete steps being taken towards economic reform, good governance, human rights protection, democracy and the rule of law.

4. It is important to remember that eastern Europe is not an economic and institutional desert or void. The countries in the region maintain stable economic and commercial relations, sometimes in the framework of intergovernmental agreements and institutions, such as the Common Economic Space and the Euro-Asian Economic Union. A balanced strategy under the ENP should be based on constructive co-operation with these institutions, not on attempts to sow discord between them or to face the former Soviet countries with the dilemma of either belonging to independent structures or moving closer to the EU.

5. The Council of Europe and the European Union have repeatedly declared that they share the same values and principles and pursue common aims with regard to democracy, the rule of law and human rights and fundamental freedoms. The Assembly recalls that the European Convention on Human Rights of the Council of Europe is the only legally binding instrument in Europe in the field of human rights protection for all 46 Council of Europe member states, including those which are members of the European Union.

6. The Assembly therefore believes that the ENP has to be based on co-operation between the EU and the Council of Europe, and that this implies that the ENP fully integrates the values and standards of the Council of Europe and uses its expertise in its core areas of excellence. Lack of coordination would not only result in duplication of efforts. Worse, it would create the risk of sending incoherent political messages to the countries concerned and especially to those which have undertaken specific commitments as Council of Europe members.

[1] *Assembly debate* on 6 October 2005 (30th Sitting) (see Doc. 10696, report of the Political Affairs Committee, rapporteur: Mr Van den Brande, Doc. 10706, opinion of the Committee on Economic Affairs and Development, rapporteur: Mrs Piroshnikova and Doc. 10708, opinion of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur : Mr Zingeris). *Text adopted by the Assembly* on 6 October 2005 (31st Sitting).

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7. The Assembly recalls that the Council of Europe Third Summit of Heads of State and Government, held in Warsaw on 16-17 May 2005, confirmed that European leaders' wish to avoid overlapping between the activities of the main international organisations operating on the European continent. That implies a clear definition of areas of competence of each Organisation and mutual respect for their respective expertise in these domains.

8. The relations between the Council of Europe and the EU – particularly in view of a report under preparation by Mr Jean-Claude Juncker, Prime Minister of Luxembourg, which is designed as a basis for the future Memorandum of Understanding between both Organisations, may constitute an important indication of the European leaders' determination and political will to give substance to their declarations.

9. Both Organisations have a long history of successful co-operation. However, some recent developments related to the establishment of the European Union Agency for Fundamental Rights may give rise to concerns about the duplication of actions.

10. The ultimate economic and political objectives of the ENP are built on a mutual commitment to common values in the field of the rule of law, good governance, respect for human rights and the promotion of good neighbourly relations which are inscribed in the Action Plans agreed individually with every country concerned. These are Council of Europe areas of excellence.

11. The Assembly points out that the Council of Europe has an established practice in assisting committed states in their efforts to build sustainable democratic systems. It includes the development of national strategies, determination of measures to be taken, elaboration of legislation, setting deadlines for accession to international legal instruments, monitoring procedures and co-operation programmes aimed at consolidating democracy, the rule of law and ensuring respect for human rights.

12. The Council of Europe has been monitoring the specific obligations and commitments of all Council of Europe member countries covered by the ENP since their accession. The compliance of these countries with their obligations and commitments towards the Council of Europe should be a sine qua non precondition for any further European integration within the ENP.

13. Furthermore, non-member countries of the Council of Europe addressed by the ENP are also concerned by the Council of Europe's commitment to develop dialogue with them following the Third Summit's decision to increase inter-cultural and inter-religious contacts. This particularly concerns the southern Mediterranean region and the Middle East. The Council of Europe could become a useful forum for a dialogue on the basis of partnership.

14. Contacts with countries in these regions have already been numerous, particularly at the parliamentary level. The proposed Tripartite Forum between the parliamentarians of the Knesset, Palestinian Legislative Council and the Parliamentary Assembly is a good example of co-operation. Further increase in relations may lead to the elaboration of a special status which would enable closer co-operation with countries from outside Europe.

15. The Assembly notes with satisfaction that the European Parliament in its Resolution on "Wider Europe – Neighbourhood: a new framework for Relations with our Eastern and Southern Neighbours (P5_TA(2003)0520)" made not only explicit reference to the Council of Europe mechanisms on which to build relations with some countries covered by the ENP but also clearly insisted on setting up a concrete co-operation with the Council of Europe.

16. If the commitment of the European leaders to ensure complementarity within European organisations is not to remain wishful thinking, the Council of Europe and the EU have to reach a political agreement that the values and standards of the Council of Europe should be given full political recognition in the ENP Action Plans. Moreover, the expertise, monitoring procedures and assistance know-how of the Council of Europe should be widely used in the implementation of the ENP.

17. Therefore, the Assembly calls on the Committee of Ministers to:

17.1. urge the relevant authorities of the EU to establish concrete co-operation with a view to institutionalising the Council of Europe's contribution to the ENP and give it appropriate political recognition, and in particular:

17.1.1. present concrete projects for the Council of Europe's contribution to the ENP on the basis of Action Plans combining the objectives of both institutions;

17.1.2. for the countries covered by the ENP which are members of the Council of Europe, make compliance with Council of Europe commitments and obligations a pre-condition for any further European integration;

17.1.3. increase the co-operation and the distribution of tasks with the EU in the field, in particular with a view to elaborating more joint co-operation programmes aimed at the consolidation of democracy in the countries covered by the ENP in such a way as to use the knowledge and the expertise of the Council of Europe as added value;

17.2. develop more specific relations with non-member states concerned by the ENP, and in particular:

17.2.1. consider the redefinition of the observer status or establish a special status of associate members that would allow some non-member countries to work more closely with the Council of Europe if they meet some degree of democratic achievement;

17.2.2. elaborate specific co-operation programmes for these countries;

17.2.3. consider the possibility of opening certain conventions and agreements which have not yet been opened to non-member states;

17.2.4. step up contacts with the civil society in the countries covered by the ENP.

18. Furthermore, the Assembly calls on the European Parliament:

18.1. to support the Council of Europe's initiative aimed at the institutionalisation of the Council of Europe's contribution to the ENP;

18.2. to propose to the relevant instances of the European Commission to assign to the Council of Europe the concrete task of assistance and monitoring of the democratisation process in the countries covered by the ENP;

18.3. to step up joint co-operation programmes.

19. The Assembly calls on the Council of Europe Congress on Local and Regional Authorities:

19.1. to step up their contacts with local and regional authorities in non-member states covered by the ENP.

20. The Assembly calls on the Council of Europe Commissioner on Human Rights:

20.1. to establish contacts in non-member states covered by the ENP with a view to future co-operation in the field of protection of human rights;

21. The Assembly calls on the European Commission for Democracy through Law (Venice Commission):

21.1. to provide assistance for legislative and constitutional reforms with a view to develop self-sustained democratic institutions in countries covered by the ENP.

22. The Assembly calls on the European Centre for Global Interdependence and Solidarity (North-South Centre):

22.1. to increase its action in the non-member states covered by the ENP.

23. The Assembly resolves to :

23.1. cooperate closely with the European Parliament in this field;

23.2. step up contacts and intensify co-operation with the parliaments of the non-member states covered by the ENP and to initiate and set up training programmes for those parliaments

23.3. develop a dialogue focused on democratic values with these parliaments;

23.4. assess existing contacts with these parliaments with a view to developing co-operation agreements;

23.5. use co-operation agreements in a dynamic way as a useful tool for increasing close relations;

23.6. invite its members who are members of national parliaments in EU countries to urge their governments to comply with the commitments undertaken at the Third Summit in respect to the complementarity of the European organisations.

24. The Assembly resolves to work closely with institutions for which it serves as a parliamentary forum – such as the Organisation for Economic Cooperation and Development (OECD), the European Bank for Reconstruction and Development (EBRD), the World Trade Organisation (WTO), the World Bank and the International Monetary Fund (IMF) – in order to ensure maximum effect of the ENP and an optimal use of the considerable funds to be dispersed.

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Europe and bird flu - preventive health measures

Recommendation 1725 (2005)[1]

1. The Parliamentary Assembly supports the appeal by the United Nations Summit in New York on 16 September 2005 for international mobilisation against bird flu, and the recommendations made by experts at the 2nd European Conference on Influenza held in Malta from 10 to 14 September 2005.

2. The Parliamentary Assembly welcomes the decision taken by the United Nations to appoint a co-ordinator of the United Nations for the bird flu.

3. It is also concerned by the threat of a bird flu pandemic and by the fact that most countries are unprepared to deal with this threat.

4. The pandemic could also have serious consequences for the economy and health systems of member states.

5. Experts have observed an increase in the number of cases of bird flu on poultry farms and note that certain epizootic diseases can lead to sometimes fatal human contamination. Possible mutations of the bird flu virus could also result in direct human to human transmission, whereas the human immune system is not equipped to resist this virus.

6. The Parliamentary Assembly therefore fully endorses the recommendations by the World Organisation for Animal Health (OIE) and by the UN Food and Agriculture Organization (FAO) concerning the steps to be taken if their poultry flocks are infected.

7. Only a small number of member states have set up an early warning system and taken preventive measures against the new virus.

8. The Parliamentary Assembly deplores the flagrant lack of medicines, both vaccines and anti-viral medicines, which are one of the most effective ways of countering this pandemic.

9. It regrets that the countries at risk are having to face the pandemic alone without the necessary financial resources to buy anti-viral vaccines and medicines to build up adequate stocks.

10. The European Commission's proposal to set up an emergency solidarity fund to reimburse some of the costs of using vaccines and anti-viral medicines to developing countries, if a bird flu pandemic were to break out, deserves the Assembly's full support.

11. The Action Plan adopted by the Heads of State and Government of the Council of Europe in Warsaw on 16 and 17 May 2005 underlined the fact that protection of health as a social human right is an essential condition for social cohesion and economic stability.

[1] *Assembly debate* on 6 October 2005 (31st Sitting) (see Doc. 10707, report of the Social, Health and Family Affairs Committee, rapporteur: Mr Jacquat). *Text adopted by the Assembly* on 6 October 2005 (31st Sitting).

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12. Consequently, the Parliamentary Assembly asks the Committee of Ministers to:

12.1. establish co-operation programmes with the WHO and step up the Council of Europe's health protection activities;

12.2. ask the relevant committee of experts to take the necessary steps to harmonise the authorisation procedure for vaccines and facilitate international access to them by making them available more rapidly to countries that do not manufacture them;

12.3. recommend the governments of Member States and countries with observer status to:

12.3.1. provide backing for WHO activities aimed at preventing and combating the risks of a pandemic;

12.3.2. take action to provide consumers with transparent information on the real dangers linked to eating the poultry available on their domestic markets;

12.3.3. ensure that the recommendations of the OIE and the FAO concerning in particular the quarantining of contaminated poultry and the destruction of infected birds are strictly applied;

12.3.4. allocate additional financial resources rapidly to the prevention and combating of bird flu, in order to prevent the outbreak of a human pandemic;

12.3.5. as a matter of great urgency, start public awareness campaigns to inform farmers and breeders of the risks and of the strategies for combating this scourge;

12.3.6. provide substantial compensation for poultry farmers whose flocks are infected by the virus;

12.3.7. improve their health and hygiene services, including research into possible health additives to commercial foodstuff;

12.3.8. provide a sufficient stock of masks as preliminary prevention, namely for poultry farmers living in countries at risk;

12.3.9. support the establishment of a regional medical surveillance system;

12.3.10. take the necessary steps to increase capacity to produce anti-viral vaccines and medicines and make them accessible to developing countries;

12.3.11. take steps to set up a solidarity fund to reimburse some of the costs involved in using vaccines and anti-viral medicines to developing countries;

12.3.12. ensure that any relevant virus material is made available without delay to all appropriate institutes and laboratories concerned in order to ensure the fast and sufficient production of vaccines;

12.3.13. ensure that a sufficient production and distribution of vaccines is not hindered by patent law.

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Serious human rights violations in Libya - inhuman treatment of Bulgarian medical staff

Recommendation 1726 (2005)[1]

1. Five nurses of Bulgarian nationality - Kristiana Vulcheva, Nassya Nenova, Valentina Siropoulo, Valya Chervenyachka and Snejana Dimitrova – were arrested by the Libyan police on 9 February 1999. They are accused of deliberately causing an epidemic by injecting some 426 children at the Al-Fateh hospital in Benghazi with the AIDS virus. Charged with premeditated murder through having deliberately contaminated the children with the AIDS virus, they were sentenced to death on 6 May 2004, together with a Palestinian doctor, Dr Ashraf al-Hajuj. The Committee of Ministers and the Parliamentary Assembly severely condemned this verdict which is contrary to the fundamental values they uphold. The Libyan Supreme Court, with which an appeal has been lodged on points of law, will deliver its judgment on 15 November 2005.

2. The Parliamentary Assembly is deeply concerned about the fate of the five Bulgarian nurses and the Palestinian doctor, who have spent over six and a half years in Libyan prisons. It categorically condemns the barbaric way in which they were treated in the first few months after their arrest and the torture and ill-treatment to which they were subjected. It considers that there is no proof of their guilt and that they are being used as scapegoats for a dilapidated Libyan health system. The Assembly is shocked by the attitude of hatred towards them in public opinion, fuelled by certain sections of the Libyan leadership and media which have stirred up public resentment against these five women and this man.

3. The Assembly notes the following:

3.1 distinguished specialists, testifying under oath at their trial, exonerated the nurses and the doctor, showing clearly that the infection had broken out in 1997 at Al-Fateh Paediatric Hospital in Benghazi, in other words over a year before the Bulgarians had come to work there, and that it continued after their arrest; they concluded that there had been a series of accidental nosocomial infections owing to the failure to comply with standards of hygiene, neglect and bad medical practices;

3.2 moreover, one of the nurses never worked at the Benghazi pediatric hospital;

3.3 the experts proved that the storage conditions of the bottles of blood plasma used as prosecution evidence were such as to preclude any conclusive biological analysis;

3.4 the numerous breaches of Libyan law (torture, procedural irregularities, etc.) also militate in favour of the nurses' innocence.

4. The Assembly thus concludes that the Bulgarian nurses and the Palestinian doctor should be regarded as completely innocent.

[1] *Assembly debate* on 6 October 2005 (31st Sitting) (see Doc. 10677, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Lloyd). *Text adopted by the Assembly* on 6 October 2005 (31st Sitting).

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5. The Libyan authorities, sheltering behind the independence of their country's justice system, take note of the judgments handed down by the Libyan courts, under which the nurses were found guilty of the crimes of poisoning and homicide and convicted, while the Libyans accused of torture were acquitted for lack of evidence. They consider that the payment by Bulgaria of compensation to the families and the provision of free care for the contaminated children in European hospitals are essential prerequisites for any progress on the nurses' case. The Bulgarian authorities have categorically rejected all Libya's financial demands, refusing to buy the release of the nurses by paying compensation to the Libyan victims, as this would be tantamount to recognising the nurses' guilt and, beyond that, the Bulgarian State's responsibility.

6. The matter before the Assembly, which is a source of tension in Libya's relations with Western countries, is complex. But however complex it may be, it first of all involves two painful tragedies: the plight of some 426 Libyan children contaminated with the AIDS virus, 51 of whom have died so far, and the ordeal of five Bulgarian nurses and a Palestinian doctor, who are innocent.

7. The Assembly expresses its compassion for the Libyan children contaminated with the AIDS virus and its sympathy with their families. It welcomes the efforts by the European Union and certain states, foremost among them Italy, which have made it possible to bring under control the epidemic that had broken out in the country eight years previously. It strongly supports the Action Plan launched by the European Commission in November 2004 in view of co-ordinating the humanitarian assistance to the infected children.

8. The sick children are now getting treatment. The death sentence passed on five women who are clearly innocent of the crimes they are charged with in no way relieves the suffering of the children and their families. Libya has nothing to gain by adding a second tragedy to the first.

9. Notwithstanding the efforts over the last year to reintegrate Libya into the international community, the lifting by the United States of the main economic and trade sanctions, the lifting by the European Union in October 2004 of the arms embargo, the signing of agreements on compensation for the victims of terrorist attacks and the willingness displayed by the Libyan authorities to open up and move closer to Europe, as reflected in the visit by Colonel Gaddafi to Brussels in April 2004, no favourable outcome has yet been found to the nurses' and the Palestinian doctor's plight.

10. The Assembly reaffirms its complete opposition to capital punishment which has no place in the penal systems of modern civilised societies. The death penalty, even applied to persons found guilty of the most heinous crimes, is a serious violation of universally recognised human rights. The Assembly firmly condemns the execution by Libya on 15 July 2005 of two Turkish nationals who had been sentenced to death. It calls on the Libyan authorities to act swiftly to abolish capital punishment and immediately place a moratorium on executions.

11. The Assembly asks the Committee of Ministers to;

11.1. call solemnly on the Libyan authorities to:

11.1.1. show goodwill and, in a spirit of constructive dialogue, settle the case of the Bulgarian medical team as quickly as possible and in full conformity with the internationally recognised legal norms by which Libya is bound;

11.1.2. release the nurses and the Palestinian doctor or, failing that, implement the judicial procedures through the Supreme Court to guarantee a fair trial so that their innocence is recognised and they be acquitted;

11.1.3. secure full respect for the rights of the defence and, to this end, take scrupulous care to ensure that the duly appointed international lawyers are able to provide their clients with effective assistance, guarantee them regular access to their clients, access to the files and ensure that visas are issued to them in good time;

11.1.4. speedily conduct a serious and thorough investigation into the allegations of torture and ill-treatment of the five nurses and the Palestinian doctor;

11.1.5. adhere to the universally recognised fundamental values of protection of human rights and preservation of human dignity and in particular act swiftly to abolish capital punishment and immediately place a moratorium on executions;

11.1.6. sign and ratify the United Nations optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

11.1.7. allow Dr Zdravko Georgiev, Bulgarian doctor and husband of one of the nurses, to leave Libya;

11.2. call on the member states to:

11.2.1. resolutely support the European Union's Action Plan, which is an act of solidarity with the contaminated Libyan children, through financial or material contributions, in order to guarantee the rapid provision of humanitarian assistance in Libya;

11.2.2. establish a clear link between the continuation of the process of Libya's reintegration into the international community and the satisfactory resolution of the Bulgarian nurses' and the Palestinian doctor's fate;

11.2.3. take action in all bilateral negotiations with Libya, including trade negotiations, to facilitate a speedy settlement of the fate of the Bulgarian nurses and the Palestinian doctor;

11.3. encourage the Bulgarian Government to continue the dialogue with the Libyan authorities and urge the newly-created Bulgarian NGO to speed up its work with the victims' families.

11.4. in consideration of the decision to be taken by the Libyan Supreme Court on 15 November 2005, in particular, the Assembly asks the Presidency of the Assembly to ensure that a Parliamentary Assembly delegation is sent to Libya to meet with the Libyan Head of State and to follow the court proceedings. It considers it useful that its Committee on Legal Affairs and Human Rights continues to follow the development of this issue and report to the Assembly in due time when necessary.

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Accelerated asylum procedures in Council of Europe member states

Recommendation 1727 (2005)[1]

1. The Parliamentary Assembly refers to its Resolution 1471 (2005) on accelerated asylum procedures in Council of Europe member states.

2. The Assembly considers that there is an urgent need to develop overall guidelines which go beyond the minimal standards developed in the amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status.

3. Therefore, the Assembly recommends that the Committee of Ministers :

3.1. ask the relevant intergovernmental committee to work out, in co-operation with relevant bodies, policy guidelines and best practices for dealing with accelerated procedures. Or, in view of the extensive nature of accelerated procedures, to prioritise work by examining and developing policy guidelines and best practices in the following fields:

3.1.1. the use of the concept of safe country of origin;

3.1.2. the use of the concept of safe third country, including the concept of "super safe third country";

3.1.3. procedures adopted for dealing with asylum seekers at border-points;

3.1.4. rights of appeal, including the suspensive effect of appeals;

3.2. to expand Council of Europe training initiatives for those involved in refugee status determination in general, and those involved in accelerated procedures in particular, ensuring:

3.2.1. close co-operation with the UNHCR in all training programmes;

3.2.2. full account of the human rights standards of the Council of Europe, notably the European Convention on Human Rights and the case-law of the European Court of Human Rights relevant to refugee status determination;

3.2.3. full use of information, relevant for the refugee status determination process, arising from monitoring mechanisms of the Council of Europe, such as those established by the European Social Charter, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Framework Convention for the Protection of National Minorities as well as the monitoring reports of the European Commission Against Racism and Intolerance (ECRI).

[1] *Assembly debate* on 7 October 2005 (32nd Sitting) (see Doc. 10655, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Agramunt). *Text adopted by the Assembly* on 7 October 2005 (32nd Sitting).

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Co-development policy as a positive measure to regulate migratory flows

Resolution 1462 (2005)[1]

1. Today, more than 20 million foreign residents live in Europe. The majority of these migrants originate from developing countries and they make valuable contributions to their host countries as well as their countries of origin.

2. Migrants contribute to the development of their countries of origin through investments and remittances but also through their skills, entrepreneurial activities and support for democratization and human rights promotion. This positive impact of migration on development is receiving increased recognition by all actors of international development co-operation.

3. The Parliamentary Assembly considers that the interaction between migration and development, i.e. ensuring that migration contributes to sustainable development and that, in turn, development contributes to the management of migration, could be most successfully achieved through co-development policies. Co-development is of value both for European as well as North-South co-operation.

4. The Assembly also believes that co-development policies aimed at involving migrants as actors of development who strengthen co-operation between home and host societies, should be actively promoted at European level.

5. The Assembly stresses that partnership between the countries of migrants' origin and host countries is essential for responsibility sharing in regulating migratory flows in the common interests of all involved.

6. It particularly underlines the role of local authorities in the development process, especially in facilitating remittances and creating favourable conditions for migrants' investment and repatriation projects.

7. Co-development policies can have an empowering impact on women by promoting their financial independence and enabling them to exercise their rights more effectively. Women migrants can make use of acquired skills to bring about change and development in their countries of origin.

8. The Assembly acknowledges the valuable contribution of diaspora communities to their countries of origin and calls on its member states to recognise diaspora communities as privileged partners of their national development policies.

9. The Assembly welcomes the efforts of international organisations, such as the International Organisation for Migration, the European Union, the World Trade Organisation and the United Nations as well as the Inter-Parliamentary Union, in promoting activities relating to migration and development and facilitating co-operation between countries of origin and receiving countries.

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[1] *Assembly debate* on 3 October 2005 (25th Sitting) (see Doc. 10654, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Salles). *Text adopted by the Assembly* on 3 October 2005 (25th Sitting).

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10. Consequently, the Assembly invites the governments of the member states of the Council of Europe:

10.1. as regards the link between development and migration, to:

10.1.1. integrate migration management into development policies;

10.1.2. promote migrants as agents of development by assuring adequate and favourable conditions at national, regional and international levels;

10.1.3. sign bilateral and regional agreements for orderly migration management;

10.1.4. help countries of origin to improve their infrastructures and to create better conditions for international investments, in particular involving migrants;

10.1.5. link local initiatives with existing national, regional and international administrations concerned with managing migration and with co-development co-operation;

10.2. as regards co-development policies, to:

10.2.1. encourage migrants' participation in drawing up co-development policies and projects;

10.2.2. promote return of students and migrants responding to the needs of the countries of origin and integrate the provision of necessary re-employment training and grants;

10.2.3. provide financial and administrative support for co-development projects;

10.2.4. step up co-operation between the authorities concerned at the level of both the host country and the country of origin to ensure that co-development projects are monitored and assessed;

10.2.5. develop training programmes for migrants aimed at fostering two-way exchanges between the host country and the country of origin;

10.2.6. encourage circulation of information and the establishment of networks, including a database on co-development projects;

10.2.7. promote co-operation with diaspora communities and to offer support to existing diaspora networks and organisations to help them to address their own agendas for co-development;

10.2.8. involve actively young people and youth organisations, women and women's organisations in the co-development process;

10.2.9. collect information and data on diasporas, as well as identify their initiatives, networks and associations, trade flows and remittances;

10.3. as regards remittances, to:

10.3.1. develop public policies focusing on increasing the positive impact of remittances, also by including the use of migrants' skills, knowledge and unique position for the creation of new international trade and business opportunities;

10.3.2. encourage local authorities and banks to facilitate the use of migrants' savings for local development projects;

10.3.3. encourage the work of non-governmental organisations that promote projects using remittances for poverty reduction and sustainable development in the countries of origin.

11. The Assembly also invites relevant international agencies to conduct studies on the micro and macro-economic impact of remittances and on the relationship between migration and remittances.

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Enforced disappearances

Resolution 1463 (2005)[1]

1. "Enforced disappearances" entail a deprivation of liberty, refusal to acknowledge the deprivation of liberty or concealment of the fate and the whereabouts of the disappeared person and the placing of the person outside the protection of the law.

2. The Parliamentary Assembly unequivocally condemns enforced disappearance as a very serious human rights violation on par with torture and murder and it is concerned that this humanitarian scourge is still not eradicated, even in Europe.

3. The Assembly, recalling in particular its Resolution 1403 (2004) and Recommendation 1679 (2004) on the human rights situation in Chechnya, as well as Resolution 1371 (2004) and Recommendation 1657 (2004) on disappearances in Belarus and Recommendation 1056 (1987) on missing persons in Cyprus, considers the fight against enforced disappearances to be first and foremost a responsibility of the states concerned.

4. It notes the similarities between the disappearances in Belarus and those in certain Latin American countries in the 1970s and 1980's and demands that justice be done without any further delay.

5. In view of the inability, and in rare cases the unwillingness of some states to provide effective protection, a well-defined international legal framework is also of utmost importance.

6. In this respect, the Assembly pays tribute to international human rights bodies, and in particular the European Court of Human Rights, the UN Human Rights Committee and the UN Commission on Human Rights, its Working group on enforced or involuntary disappearances, and the Inter-American Court of Human Rights, for their contribution to the nascent international legal framework for the fight against enforced disappearances. Their case law has clarified a number of State obligations in this respect, in particular as regards the duty to investigate.

7. It also welcomes the UN General Assembly's 1992 Declaration on the Protection of all Persons from Enforced Disappearances in which key principles were laid down for the first time in a consolidated, though non-binding form.

8. Unfortunately, a number of important gaps still exist in the international legal framework, regarding inter alia the definition of enforced disappearance, the precise extent of States' obligations to prevent, investigate and sanction such crimes and the status of the victims and their relatives.

[1] *Assembly debate* on 3 October 2005 (25th Sitting) (see Doc. 10679, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides). *Text adopted by the Assembly* on 3 October 2005 (25th Sitting).

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9. The Assembly therefore welcomes the progress made by the Intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance at its 5th session in September 2005 leading it to the adoption, on 22 September 2005, of a draft convention in good time for the UN Commission on Human Rights to adopt it at its 62nd session in the spring of 2006.

10. As regards the content of the future binding instrument, the Assembly considers the following points, most of which are reflected in the draft convention adopted by the UN intersessional working party on 22 September 2005, as essential:

10.1. the definition of enforced disappearance

10.1.1. should be wide enough to cover such acts also when they are committed by non-State actors, such as paramilitary groups, death squads, rebel fighters and organised criminal groups;

10.1.2. should not include a subjective element, which would be too difficult to prove in practice. The inherent difficulties in proving an enforced disappearance should be met by the creation of a rebuttable presumption against the responsible State officials involved;

10.2. family members of the disappeared should be recognised as independent victims of the enforced disappearance and be granted a "right to the truth", i.e. a right to be informed of the fate of their relatives;

10.3. the instrument should include the following safeguards against impunity:

10.3.1. obligation for states to include the crime of enforced disappearance with an appropriate punishment in their domestic criminal codes;

10.3.2. extension of the principle of universal jurisdiction to all acts of enforced disappearance;

10.3.3. recognition of enforced disappearance as a continuing crime, as long as the perpetrators continue to conceal the fate of the disappeared person and the facts remain unclarified; consequently, non-application of statutory limitation periods to enforced disappearances;

10.3.4. clarification that no superior order or instruction of any public authority may be invoked as a defence to justify an act of enforced disappearance;

10.3.5. exclusion of perpetrators of enforced disappearances from any amnesty or similar measures, and from any privileges, immunities or special exemptions from prosecution;

10.3.6. trial of perpetrators of enforced disappearances only in courts of general jurisdiction, and not in military courts;

10.3.7. enforced disappearance shall not be considered as a political offence for the purposes of extradition and asylum and the prohibition of *refoulement* shall also apply to the danger of being subjected to enforced disappearance;

10.3.8. failure to effectively investigate any alleged enforced disappearance should be an independent crime with an appropriate punishment. The Minster and/or the Head of Department responsible for the investigations should be made criminally responsible for the said failure;

10.4. the instrument should include the following preventive measures :

10.4.1. unqualified prohibition of any form of incommunicado detention and of any secret places of detention;

10.4.2. prompt, simple and effective remedies against arbitrary detention (habeas corpus);

10.4.3. duty to effectively investigate any complaint of enforced disappearance;

10.4.4. establishment of an official and generally accessible, up-to-date register of all detainees and of centralised registers of all places of detention;

10.4.5. procedures for the release of all detainees in a manner permitting reliable verification;

10.4.6. appropriate training of law enforcement and prison staff and lawyers:

10.5. the instrument should include a well-defined right to reparation covering:

10.5.1. restitution, i.e. immediate release of the disappeared person if he or she is still alive, or the exhumation and identification of the body and the return of the mortal remains to the next of kin for a decent burial, as well as rehabilitation, medical, psychological and social care at the expense of the government responsible;

10.5.2. satisfaction, i.e. an apology by the authorities, guarantees of non-repetition, the disclosure of all relevant facts following an in-depth investigation and the prosecution of the perpetrators;

10.5.3. compensation for material damage (including a realistic assessment of lost income and maintenance of dependents, as well as legal costs), and an adequate sum for the mental and physical suffering of both the disappeared persons and their relatives;

10.6. the instrument should finally provide for a strong international mechanism to monitor the respect of the State obligations following from items 10.1. to 10.5. above which should also foresee a mechanism for urgent interventions in individual cases.

11. The Assembly urges all member states of the Council of Europe to support the adoption of the draft binding instrument, as agreed by the inter-sessional working party in the UN Commission on Human Rights and in the General Assembly.

12. In case the compromise reflected in draft binding instrument is re-opened in the process of its adoption, the member states of the Council of Europe are urged to pursue further improvements of this text, in particular to:

12.1. streamline the procedure for on-site visits by the future Committee on Enforced Disappearances in Article 32 of the draft convention;

12.2. extend the application of the future convention over time, beyond that foreseen by the current Article 35, to include cases in which the disappearance occurred before the entry into force of the Convention and the whereabouts of the disappeared person have not been clarified until after its entry into force;

12.3. improve measures against impunity, in particular by the exclusion of perpetrators of enforced disappearances from any amnesty or similar measures referred to above;

12.4. to lay down a rule following which perpetrators of enforced disappearances shall only be tried in courts of general jurisdiction and not in military courts.

13. In case the draft instrument is adopted unchanged, the member states of the Council of Europe are urged to sign and ratify it without delay, and to make declarations aimed at maximising the protective effect of the instrument, in particular to:

13.1. waive the need for prior agreement to an on-site visit of the Committee on Enforced Disappearances foreseen in Article 32;

13.2. recognise the competence of the Committee on Enforced Disappearances to receive and consider communications on behalf of individuals claiming to be victims of a violation of the Convention, as foreseen in Article 31; and

13.3. interpret Article 35 in such a way as to allow the Convention to cover also cases in which the disappearance occurred before entry into force of the Convention and the whereabouts of the disappeared person have not been clarified until after its entry into force.

14. It resolves to examine, in the second semester of 2006, the results achieved in the framework of the United Nations and any new initiatives that may be required from the Council of Europe in order to achieve the desired level of protection against enforced disappearances.

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Women and religion in Europe

Resolution 1464 (2005)[1]

1. In the lives of many European women, religion continues to play an important role. In fact, whether they are believers or not, most women are affected in one way or another by the attitude of different faiths towards women, directly or through their traditional influence on society or the State.

2. This influence is seldom benign: women's rights are often curtailed or violated in the name of religion. While most religions teach equality of women and men before God, they attribute different roles to women and men on earth. Religiously motivated gender stereotypes have conferred upon men a sense of superiority which has led to discriminatory treatment of women by men and even violence at their hands.

3. At one end of the spectrum lie the extreme violations of women's human rights such as so-called "honour" crimes, forced marriages and female genital mutilation, which – though still rare in Europe – are on the rise in some communities.

4. At the other end are more subtle and less spectacular forms of intolerance and discrimination which are much more widespread in Europe – and which can be just as effective in achieving the subjection of women, such as the refusal to put into question a patriarchal culture which holds up the role of wife, mother and housewife as the ideal and the refusal to adopt positive measures in favour of women (for example in parliamentary elections).

5. All women living in Council of Europe member states have a right to equality and dignity in all areas of life. Freedom of religion cannot be accepted as a pretext to justify violations of women's rights, be they open, subtle, legal or illegal, practiced with or without the nominal consent of the victims – women.

6. It is the duty of the member states of the Council of Europe to protect women against violations of their rights in the name of religion and to promote and fully implement gender equality. States must not accept any religious or cultural relativism of women's human rights. They must not agree to justify discrimination and inequality affecting women on grounds such as physical or biological differentiation based on or attributed to religion. They must fight against religiously motivated stereotypes of female and male roles from an early age, including in schools.

7. The Parliamentary Assembly thus calls on the member states of the Council of Europe to:

7.1. fully protect all women living in their country against violations of their rights based on or attributed to religion by:

[1] *Assembly debate* on 4 October 2005 (26th Sitting) (see Doc. 10670, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Zapfl-Helbling). *Text adopted by the Assembly* on 4 October 2005 (26th Sitting).

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7.1.1. putting into place and enforcing specific and effective policies to fight all violations of women's right to life, to bodily integrity, freedom of movement and free choice of partner, including so-called "honour" crimes, forced marriage and female genital mutilation, wherever and by whomever they are committed, however they are justified, and regardless of the nominal consent of the victim; this means that freedom of religion is limited by human rights;

7.1.2. refusing to recognise foreign family codes and personal status laws based on religious principles which violate women's rights and ceasing to apply them on their own soil, renegotiating bilateral treaties if necessary;

7.2. take a stand against violations of women's human rights justified by religious or cultural relativism everywhere, including in international fora such as the United Nations, the IPU and others;

7.3. guarantee the separation between the church and the State which is necessary to ensure that women are not subjected to religiously inspired policies and laws (e.g. in the area of family, divorce, and abortion law);

7.4. ensure that the freedom of religion and the respect for culture and tradition are not accepted as a pretext to justify violations of women's rights, including when underage girls are forced to submit to religious codes (including dress codes), their freedom of movement is curtailed or their access to contraception is barred by their family or community;

7.5. where religious education is permitted in schools, ensure that this teaching is in conformity with gender equality principles;

7.6. take a stand against all religious doctrine which is anti-democratic or disrespectful of human rights, especially women's rights, and refuse to allow such doctrines to influence political decision-making;

7.7. actively promote respect of women's rights, equality and dignity in all areas of life when engaging in dialogue with representatives of different religions and work on achieving full gender equality in society.

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Functioning of democratic institutions in Moldova

Resolution 1465 (2005)[1]

1. Moldova has been a member of the Council of Europe for 10 years and is still under monitoring procedure. The country has advanced significantly on the path of democratic reforms but a number of important commitments have not yet been met in a satisfactory manner. The pace of reforms has been slowed down because Moldova, in addition to its democratic institutions, has had in parallel to build its national identity and to deal with a separatist regime and foreign troops on the Transnistrian part of its territory.

2. The Parliamentary Assembly considers that now is the right moment for Moldova to make decisive, comprehensive and irreversible progress with regard to the implementation of democratic standards and practices. The priorities should be the improvement of the functioning of democratic institutions; the independence and efficiency of the judiciary; ensuring freedom and pluralism of the electronic media; the strengthening of local democracy; the raising of economic performance coupled with good social protection and the fight against corruption and trafficking in human beings and organs.

3. The currently stabilised political situation offers an opportunity to achieve these objectives. The country cannot afford to miss it. The ruling communist party has taken a resolutely pro-European stance since 2002 and now seems determined to speed up the process of European integration. Since the parliamentary elections in March 2005, the President has also had the support of part of the opposition, including the Popular Christian Democratic Party, on condition that he undertakes rapid legislative reforms. Furthermore, new prospects may be opening up for the settlement of the Transnistrian conflict. The regional context is also more favourable for greater convergence with European standards and values.

4. The newly elected Moldovan Parliament has taken the exceptional initiative of adopting unanimously, at its first plenary sitting, a Declaration on Political Partnership to Achieve the Objectives of European Integration. The political maturity and responsibility of Moldovan politicians in the eyes of their people and their country will also be measured by the yardstick of this spirit of co-operation and all the democratic reforms they are able to carry out.

5. The Assembly encourages the Moldovan leadership to accompany all the declarations in favour of democratic values and standards with a real dialogue and transparency in relations with the opposition, both nationally and at local level. Political debate must take place in parliament, not in the courts or on the streets. The Assembly deplores the high incidence of criminal proceedings against opposition figures, whether in the capital or in the provinces.

6. Democratic reforms will not succeed in an atmosphere of conflict and without the support of the population. The Assembly welcomes the Moldovan Parliament's decision to broadcast its plenary sittings, thus making the political debate public. However, genuine involvement of civil society requires a plural and dynamic media sector, particularly with regard to television. The conditions must also be created for a genuinely independent and professional public broadcasting service.

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[1] *Assembly debate* on 4 October 2005 (27th Sitting) (see Doc. 10671, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mrs Durrieu and Mr Kvakkestad). *Text adopted by the Assembly* on 4 October 2005 (27th Sitting).

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7. The Assembly takes note of the first concrete results of the work of the new legislature. On 22 July, the Parliament adopted a package of laws dealing with important aspects of the country's commitments to the Council of Europe, such as the functioning of the judiciary, electoral legislation or the reform of the Information and Security Service. The Assembly will be able to take position on these reforms after these laws have been assessed by the relevant Council of Europe expert bodies.

8. The Assembly welcomes the fresh boost the Moldovan authorities have given to economic growth. Moldova remains however one of the poorest countries in Europe. The endemic poverty of a large part of the population, low wages and poor social protection create fertile territory for corruption at all levels of public life. This poverty also sustains some of the most revolting and degrading criminal practices such as trafficking of human beings and organs. Without rapid and real improvements in living standards, a disappointed Moldovan people are unlikely to feel a lasting commitment to the democratic reform process.

9. The Action Plan, signed between the European Union and Moldova in February 2005, has given the authorities strong motivation to further move towards European integration. The Assembly notes with satisfaction that the objectives set out in the EU–Moldova Action Plan make reference to the requirements of the Council of Europe and it resolves to ensure further co-ordination between the two institutions at the highest level.

10. The Assembly welcomes the resumption of negotiations following Ukraine's optimistic initiative of settling the Transnistrian conflict by giving priority to democratisation. It hopes that the current five-member format, involving Moldova, the Transnistrian region, Russia, Ukraine and the OSCE, and soon, the European Union and the United States as observers will be extended to include also the Council of Europe. It emphasises the need for effective supervision of the border between Moldova and Ukraine, arms stocks and the production of armaments factories. Given their accumulated expertise, the Assembly wishes its rapporteurs to be associated with all these developments.

11. Any settlement of the Transnistrian conflict must be based on the inviolable principle of full respect for Moldova's territorial integrity and sovereignty. In accordance with the rule of law, any solution must accord with the popular will as expressed in fully free and democratic elections run by internationally recognised authorities.

12. The Assembly therefore invites the Moldovan authorities, with regard to the functioning of democratic institutions to:

12.1. revise immediately its rules of parliamentary procedure along the lines of the expertise provided by the Parliamentary Assembly, in further co-operation with the Assembly; guarantee in legislation and regulations that members of parliament can fully perform their responsibilities without the fear that they might lose their mandate or immunity for political reasons;

12.2. revise the legislation on political parties in the light of European standards;

12.3. ensure that all the recommendations of the Venice Commission and the OSCE/ODIHR on elections are immediately taken into consideration in the electoral legislation and practice;

12.4. to bring legislation and practice in the field of local democracy in line with the European Charter on Local Self-Government:

12.4.1 to revise in particular legislation regarding the status of the municipality of Chisinau and local public finances, in co-operation with the Council of Europe Congress of Local and Regional Authorities;

12.4.2. to guarantee that the elections for the office of mayor of Chisinau, scheduled for 27 November 2005, are organised in conformity with Council of Europe standards;

12.4.3. to denounce the principle of dismissal of the former mayor of Comrat by the Peoples' Assembly of Gagauzia and investigate the reasons for the high incidence of criminal court cases against leading figures of the opposition, both nationally and in the provinces.

13. The Assembly also asks the Moldovan authorities, with regard to the rule of law, to:

13.1. reform the judiciary in order to guarantee its independence and increase the effectiveness and professionalism of the courts to:

13.1.1. revise legislation in particular with regard to civil and criminal procedures, judicial organisation, the status of judges, the strengthening of the independence of the judiciary and the enforcement of judicial decisions;

13.1.2. revise the extensive competences of the General Prosecutor's Office;

13.1.3. undertake institutional reform (the Ministry of Justice, the High Council of Justice, the Bar Association);

13.1.4. improve the working environment of the judiciary; to improve their training and working methods; eliminate corruption within the system and train magistrates up to the highest standards;

13.2. ensure the successful implementation of the Anti-Corruption Strategy and Action Plan;

13.3. ratify the Council of Europe Convention on action against trafficking in human beings and take all necessary measures at national and international level for a decisive crackdown on human and organ trafficking;

13.4. continue to make efforts in order to obtain the release of the political prisoners Andrei Ivantoc and Tudor Petrov Popa, illegally imprisoned in Tiraspol, according to the final decision of the European Court of Human Rights of the 7th of July 2004 and the previous resolutions DH (2005) 42 of 22 April 2005 and DH (2005) 84F of the Committee of Ministers.

14. The Assembly further urges the Moldovan authorities, with regard to the protection of human rights to:

14.1 strengthen all the necessary guarantees and practical steps for respect of freedom of expression as defined in Article 10 of the European Convention on Human Rights and in line with the case-law of the European Court of Human Rights, in particular to:

14.1.1. revise legislation regarding public service broadcasting (both national and local) and the audiovisual sector in general;

14.1.2. pursue the transformation of TeleRadioMoldova into a genuine public service broadcaster, as defined in Assembly Recommendation 1641 (2004) on public service broadcasting;

14.1.3. revise the laws on defamation to ensure that any fines imposed are reasonable in quantum.

14.2. continue the reform of its security and law-enforcement agencies; considerably improve conditions of detention to bring them fully in line with European standards and find appropriate solutions to the problem of overcrowding of detention centres;

14.3. implement the recommendations given in the Second Opinion on Moldova by the Advisory Committee of the Framework Convention on National Minorities;

14.4. ensure fully the respect of fundamental rights of sexual minorities;

14.5. develop a multi-cultural and multi-perspective approach to education, in particular withregard to the teaching of languages, history and geography.

15. The Assembly further calls on the Moldovan authorities to pursue their efforts in favour of strong and sustainable economic growth and to ensure that the economic achievements would be to the benefit of the entire population. The Assembly refers in this respect to Recommendation 1605 (2003) on the economic development of Moldova: challenges and prospects.

16. The Assembly insists that the Moldovan authorities submit all new draft legislation in areas under monitoring to the Council of Europe for expertise and that they provide timely, regular and exhaustive information to the Assembly on what action is taken in response to this expertise.

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Honouring of obligations and commitments by Ukraine

Resolution 1466 (2005)[1]

1. Ukraine joined the Council of Europe on 9 November 1995. Upon accession, it committed itself to respect its general obligations under the Statute of the Council of Europe, namely pluralist democracy, the rule of law and respect for human rights and fundamental freedoms of all persons under its jurisdiction. At that moment, Ukraine also agreed to comply, within set deadlines, with a number of specific commitments listed in the Assembly Opinion No. 190 (1995).

2. In 2004 Ukraine went through critical presidential elections: two fraudulent rounds of voting in October and November 2004 provoked non-violent massive popular protests and led to a repeat second round on 26 December that in general complied with Council of Europe standards of free and fair elections. Ukrainian people thus demonstrated their commitment to democratic values and aspirations for a better leadership that would reinforce the rule of law and human rights in the country and fight corruption.

3. To live up to the high expectations generated by the Orange Revolution, the new leadership has pledged sweeping political, legal, social, and economic reforms. In the first nine post-revolution months, it has nonetheless encountered numerous difficulties originating in particular from the years of the rule of the previous regime as well as from internal conflicts within the new administration. The Assembly urges the Ukrainian authorities to carry on with the reform process and not to let political competition jeopardise the country's development.

4. The Assembly welcomes the positive evolution in Ukraine and the first achievements of the new authorities. It hopes that the new leaders will manage to preserve their steadfast resolve and to succeed in the crucial reforms, which Ukraine badly needs. In this regard, the preparation and conduct of the 2006 parliamentary and local elections in line with Council of Europe standards will be a major test for the new authorities. The 2006 elections will show whether Ukraine has passed the point of no return on its road to becoming a truly democratic European state governed by the Rule of Law. In this respect, the Assembly declares its readiness to send a pre-electoral mission to Ukraine to follow the preparations for the elections and subsequently to deploy a large-scale observer mission to follow their conduct.

5. In its Resolution 1346 (2003) of September 2003, the Assembly concluded that, although notable progress had been made by Ukraine in the field of legislation since the adoption of the Assembly's Resolution 1262 (2001), the country had not yet honoured all obligations and commitments it entered into on becoming a member state of the Council of Europe, and that the rule of law in many areas had not yet been fully established.

6. The Assembly is pleased to note that Ukraine has since made further significant progress:

6.1. a new Civil Procedure Code entered into force on 1 September 2005;

[1] *Assembly debate* on 5 October 2005 (28th Sitting) (see Doc. 10676, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mrs Severinsen and Mrs Wohlwend). *Text adopted by the Assembly* on 5 October 2005 (28th Sitting).

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6.2. a Code of Administrative Justice was adopted in July 2005 and put into effect on 1 September 2005, enabling operation of administrative courts;

6.3. all pre-trial detention centres were transferred to the State Department for the Execution of Punishments;

6.4. a new code on the execution of sentences was enacted and the number of persons in custody has significantly decreased;

6.5. publication of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report was authorised;

6.6. a law on public financing of political parties came into effect on 1 January 2005;

6.7. a law that reinforced prosecution of torture and the protection of the rights of detained and arrested persons was adopted in January 2005;

6.8. the reservation to Article 5 § 3 of the European Convention on Human Rights was withdrawn;

6.9. a law strengthening the state service for enforcement of non-criminal judicial decisions was adopted in June 2005;

6.10. the draft law on the establishment of the system of public television and radio in Ukraine was adopted in the first reading as well as a new version of the law on TV and radio broadcasting; a new law on the national council on broadcasting was enacted;

6.11. Protocol No. 14 to the European Convention on Human Rights and the recent Convention on the Prevention of Terrorism were signed respectively in November 2004 and May 2005;

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

6.13. 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.

7. The Assembly also commends the new authorities for eliminating the previously widespread censorship practices with regard to mass media and ensuring freedom of expression and freedom of assembly throughout the country. The new leadership has furthermore committed itself to fighting corruption and human trafficking, and tackling the problem of torture and ill-treatment.

8. Whilst welcoming the zeal of the new authorities with regard to the prosecution of previous election frauds, the Assembly underlines that it is of utmost importance to bring to justice not only those who executed illegal orders but most of all the masterminds behind the massive election fraud, those who instigated violence or bribed voters, in order to prevent future infringements and to instil the principles of the rule of law.

9. The Assembly notes that the new wording of the Law on the Elections of People's Deputies, adopted in July 2005, has significantly enhanced the election procedures and taken account of the recommendations of international observers issued after the last presidential elections. However, the new law introduces the possibility to suspend the activities of media outlets, including without a prior court decision, which is highly susceptible to abuse. The Assembly, therefore, urges the Ukrainian authorities to amend this provision as soon as possible, and to enact legislation on the state registry of voters. Legal liability for election violations listed in the new law should be established as well.

10. 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.

11. Whilst welcoming the broad reform agenda of the new authorities, the Assembly considers that the following specific measures need to be taken in order to accelerate the reforms that will transform Ukraine into a stable and prosperous European democracy.

12. With respect to the improvement of the conditions for the functioning of pluralist democracy in the country, the Assembly calls on the Ukrainian authorities to:

12.1. adopt the laws on the functioning of the branches of power, as required by the Constitution, in particular to enact as soon as possible the laws on the President of Ukraine and on the Cabinet of Ministers of Ukraine;

12.2. strengthen the oversight function of the parliament, in particular to adopt the law on the Verkhovna Rada's temporary special and investigatory commissions; establish legislative guarantees and conditions for the functioning of parliamentary opposition; streamline the parliament's internal activity by adopting a law on the new Rules of Procedure;

12.3. continue the reform of local self-government in order to implement the provisions of the European Charter of Local Self-Government;

12.4. transform the state broadcasters into public service broadcasting channels in line with relevant Council of Europe standards; start privatisation of the printed media outlets founded by public authorities; guarantee the transparency of media ownership; create equal conditions for the functioning of all media by revising the 1997 law on governmental support for the media and social protection of journalists; ratify the European Convention on Transfrontier Television; 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.

13. With regard to the respect for the rule of law and protection of human rights, the Assembly calls on the Ukrainian authorities to:

13.1. continue the reform of the judiciary in order to ensure its independence and effectiveness. To this end, in particular, to subordinate the State Judicial Administration to the judiciary; to transfer to the latter the authority to appoint presidents of courts; to allocate to it all necessary resources, notably for the functioning of administrative courts vested with the adjudication of election disputes; and to guarantee by law the level of remuneration of judges;

13.2. ensure that the composition of the Constitutional Court of Ukraine is renewed without undue delay after the expiration of the term of office of its justices;

13.3. establish a professional Bar association, by adopting a new law on the Bar without further delay, as required by the Assembly's Opinion 190 (paragraph 11.ix.) and in compliance with the principles of the Council of Europe and the case-law of the European Court of Human Rights;

13.4. regretting the step back in the reform of the Prosecutor's Office marked by the December 2004 constitutional amendments, modify the role and functions of this institution as required by the Assembly's Opinion 190 (paragraph 11.vi.) and paragraph 9 of the transitory provisions of the 1996 Constitution of Ukraine and in line with the Assembly's Recommendation 1604 (2003) on the role of the public prosecutor's office in a democratic society governed by the rule of law;

13.5. reform the Security Service of Ukraine in line with Council of Europe standards, in particular the Assembly's Recommendations 1402 (1999) and 1713 (2005);

13.6. finalise the new version of the draft Criminal Procedure Code and adopt it without further delay to comply with the commitment for which the initial deadline expired in November 1996. The final version of the draft Code should be debated in the parliament only after the opinion of Council of Europe experts on the final text is obtained and taken into account;

13.7. further improve conditions of detention and medical treatment in the penitentiary establishments and detention facilities in line with CPT standards and recommendations; finalise the transfer of the State Department for the Execution of Punishments to the Ministry of Justice as required by Opinion 190 (paragraph 11.vii.); establish an independent body at the national level to monitor places of detention and continue the commendable practice of authorising the publication of CPT reports with respect to Ukraine;

13.8. continue efforts aimed at fighting corruption and make sure that economic reforms do not simply lead to the redistribution of power among oligarchs; take full advantage of Ukraine's participation in GRECO and ratify the Criminal Law Convention on Corruption;

13.9. step up the activities in the field of combating trafficking in human beings, allocate sufficient resources for this purpose and ratify the Council of Europe Convention on action against trafficking in human beings;

13.10. ensure full and speedy implementation of the decisions of the European Court of Human Rights, in particular in the cases of Sovtransavto and Melnychenko; adopt the law on the execution of decisions of the European Court on Human Rights and ratify Protocol No. 14 to the Convention;

13.11. improve the democratic control over the law enforcement bodies, continue to apply a zero tolerance policy and to secure prompt, impartial and full investigation into all allegations of torture and other ill-treatment, including prosecution and punishment of those responsible of these acts and ensure reparation to victims or their families;

13.12. guarantee the protection against arbitrary or illegal detention; secure strict compliance by law enforcement bodies with the principles of due criminal procedure 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, in particular whilst investigating election and corruption related offences; abrogate provisions which allow the prosecution to ban an attorney from the representation of his/her clients if a criminal case was instituted against him/her, as incompatible with the standards of the Council of Europe; ensure that state officials making public statements respect the presumption of innocence;

13.13. improve the conditions of access to court by establishing a system of free legal aid in line with Council of Europe standards and the case-law of the European Court of Human Rights;

13.14. establish effective control over the interception of communications by law enforcement bodies and to this end adopt special legislation, which would comply with the democratic standards on the protection of privacy and national security;

13.15. with regard to the Gongadze case and following the promise of the new leadership to solve the case and the indictment of the alleged perpetrators, 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; investigate and if necessary prosecute the officials responsible for the shortcomings of the previous and current investigation;

13.16. referring to the Assembly's Resolutions 1239 (2001), 1262 (2001), and 1346 (2003), conduct a credible examination of the recordings allegedly made by Mykola Melnychenko and obtain his testimony; launch a new investigation into the case of Mr Yeliashkevych and other high-profile cases allegedly documented on the Melnychenko recordings; hold as soon as possible a parliamentary hearing, open-to-the-public, on the Gongadze case in the Verkhovna Rada of Ukraine;

13.17. enhance the legal framework for access to information, strictly adhere to Article 34 of the Ukrainian Constitution on freedom of information while classifying documents and declassify all official documents which were closed to the public contrary to the law;

13.18. introduce clear rules on the restitution of church property as required by Opinion 190 (1995) (paragraph 11.xi.);

13.19. ratify Protocol No. 12 to the European Convention on Human Rights;

13.20. implement in good faith the Framework Convention for the Protection of National Minorities, especially in the field of education, and revise the 1992 Law on national minorities in Ukraine taking into account the recommendations of the Venice Commission and the Advisory Committee on National Minorities;

13.21. ratify as soon as possible the European Social Charter (revised).

14. 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.

15. In light of the above, the Assembly resolves to pursue its monitoring of the honouring of obligations and commitments by Ukraine and to return to the assessment of Ukraine's compliance with its obligations and commitments, and to consider the possibility of moving over to a post-monitoring dialogue with the Ukrainian authorities after the March 2006 parliamentary and local elections.

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OECD and the world economy

Resolution 1467 (2005)[1]

1. The Enlarged Parliamentary Assembly, composed of delegations of the Organisation for Economic Co-operation and Development (OECD) and Council of Europe member states, has examined the recent activities of the OECD as they relate to the world economy, in the light of the report prepared by the Enlarged Assembly's Committee on Economic Affairs and Development and the contributions from various other committees.

2. The Enlarged Assembly welcomes the overall solid growth of the world economy, thanks in particular to continued growth in the United States as well as China, India, Brazil, Russian Federation and numerous emerging economies. All of these increasingly provide the main impetus to global economic growth and the Enlarged Assembly welcomes the OECD's growing co-operation with them, making the Organisation global in outreach and influence, if not yet in membership.

3. The Enlarged Assembly notes with satisfaction that inflation in the OECD area has nevertheless remained well contained, likely reflecting both rising productivity and the increased competition and richer supply of goods and services that results from rapidly increasing world trade. In the interest especially of emerging and developing economies and for the realisation of the United Nations Millennium Development Goals, it is vital to develop further an open trading and financial system that is rules-based, predictable and non-discriminatory and to set aside development assistance for the benefit of countries committed to poverty reduction - notably through the successful conclusion, under the auspices of the World Trade Organisation (WTO), of the Doha Development Agenda which also reflects the efforts to eliminate poverty, improve social conditions and raise living standards in the world economy. The enlarged Assembly asks the OECD, together with the World Trade Organisation, to identify new principles to guide world trade, in order to encourage technological investment flows to countries in particular need.

4. However, a number of worrying developments cloud the horizon. Thus, the huge and steadily rising current account deficit of the United States is unsustainable over time and may lead to a painful correction by markets as the world's savings are spent to compensate for low United States domestic savings. In this context, it is important that the United States and other countries implement macroeconomic policies in an appropriate and timely manner.

5. The Enlarged Assembly also hopes that countries which deliberately maintain weak national currencies vis-à-vis others will cease doing so as soon as possible and is convinced that the gradual improvement of the global imbalances should be achieved from now on by countries all over the world adopting a more flexible exchange rate regime.

6. The timid growth in the eurozone is another source of concern, with Italy and Germany on the verge of recession and the twelve participating countries diverging rather than converging economically. The Enlarged Assembly joins the OECD in believing that the European Central Bank may now well have room to lower its policy-setting interest rate in order to revive economic activity. At the same time it calls on European Monetary Union (EMU) member states concerned to

[1] *Assembly debate* on 5 October 2005 (29th Sitting) (see Doc. 10645, report of the Committee on Economic Affairs and Development, rapporteur: Mr Vrettos). *Text adopted by the Assembly* on 5 October 2005 (29th Sitting).

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speed up economic reform in the spirit of the 2000 Lisbon Agenda. It is important that the will to reform not be weakened as a result of the outcome in a number of national referendums on the European Union Constitutional Treaty, since this would only aggravate an already difficult economic situation and jeopardize growth.

7. High and volatile oil prices, due in particular to rapidly rising demand in the United States and in emerging economies, especially China, pose a further risk to world economic growth. The Enlarged Assembly calls on OECD member countries to make greater efforts to increase energy efficiency; reduce the dependence on fossil energy, especially oil and coal; diversify energy sources including via nuclear energy, particularly addressing the unresolved problem of the processing and storage of radioactive nuclear waste and further develop renewable energy sources and technologies. The Enlarged Assembly also invites OECD member countries to intensify efforts to promote peace and political stability in the Middle East and the Persian Gulf regions. In this context, it welcomes the Initiative on Governance and Investment for Development launched by MENA (the states of the Middle East and Northern Africa) and supported by the OECD and the United Nations Development Programme (UNDP).

8. The Enlarged Assembly welcomes the OECD's extensive co-operation with Russia under its "Russia Programme", including assisting that country's accession process to the World Trade Organisation which the Enlarged Assembly hopes can be completed in the very near future, especially if Russia undertakes needed domestic structural reform and liberalization of its economy and manages to broaden the country's economic base away from oil and gas, thereby firming investor confidence.

9. Given the impact of the opening up and growth of the Chinese economy, the Enlarged Assembly also welcomes the first OECD Economic Survey of the country completed in 2005, as well as the launch of the China Governance Project, and urges further development of these programmes.

10. The pronounced imbalances in the world economy - as illustrated for example by the US current account deficit, the increasing divergence between eurozone economies and the preoccupying falling behind of many of the world's poorest countries - are additional sources of concern. The Enlarged Assembly in this context calls on the OECD to devote more research into hedge funds and derivatives such as swaps, options and collateralized debt obligations.

11. The Enlarged Assembly rejoices in the success, one year onwards, of the European Union's 2004 enlargement to include ten new countries in central and southern Europe, as demonstrated by these countries' rapid economic and institutional development and growing integration within the wider EU. It recognises the OECD's contribution to this process via programmes such as SIGMA (Support for Improvement in Governance and Management) which are pursued also with other countries in eastern Europe and beyond.

12. It is important in this respect that thought be given to the further enlargement of the OECD itself, so as to include, as soon as possible, all the countries in the world that meet the Organisation's criteria, with due attention paid to ensuring a proper balance between world regions. OECD enlargement takes on additional significance as its current membership less and less adequately reflects the world's new economic realities and the sea-change in the distribution of its increasing wealth. The OECD's co-operation programmes with rising economies, while laudable, will no longer suffice in tackling challenges facing richer countries, including how this group may best assist the world's poorer countries, for instance in the realisation of the Millennium Development Goals.

13. The Enlarged Assembly notes the growing impact of such factors as education, scientific research, social cohesion, good governance and democratic stability on the economic performance of individual states and the world economy as a whole and recommends that OECD member states pay closer attention to such factors. In this respect, it welcomes the multilateral work achieved and standards set in those areas by the OECD and the Council of Europe and calls on these organisations to intensify their co-operation and coordination in this respect.

14. The Enlarged Assembly invites the OECD to carry out a comparative performance report in OECD member countries examining the role of higher education and research for developing students to their full potential, for example in meeting an increasing diversity of needs and demands associated with the knowledge society, lifelong learning, globalisation, national and regional economies, local communities, as well as social cohesion and equity.

15. The Enlarged Assembly calls on the OECD and the Council of Europe to coordinate their action on mutually identified priority areas in the field of education policy.

16. The Enlarged Assembly calls on the OECD to consider the non-economic aspects of agriculture. Consideration should be taken not only of the production aspect, its primary role, but also of the contribution of agriculture to the economic and social life of rural regions, the preservation and maintenance of landscapes and the protection of life's essential elements: water, air and land. Only on this condition will the balance between cities and rural areas be preserved.

17. The Enlarged Assembly strongly supports the OECD's ongoing mandate to mainstream sustainable development and considers that the implementation of the objectives of OECD's Environmental Strategy for the First Decade of the 21st Century to achieve environmental sustainability should be treated as an urgent priority. In particular, urgent action is needed to implement the Kyoto Protocol and reduce greenhouse gas emissions in the post-Kyoto period, beyond 2012.

18. Finally, the enlarged Assembly on the activities of the OECD decides to modify its Rules of Procedure adopted in 1992 as contained in the Appendix to this resolution.

Appendix

Modification of the Rules of Procedure for enlarged debates of the Parliamentary Assembly on the activities of the OECD

1. The Rules of Procedure for the enlarged debates of the Parliamentary Assembly on the activities of the OECD were adopted in 1992 and amended in 1994. They appear on pages 150 – 158 of the 2005 version of the Rules of Procedure of the Assembly.

2. Over these years, the Rules of Procedure of the Parliamentary Assembly of the Council of Europe have been modified to reflect changing circumstances, such as the Council's enlarged membership now counting 46 member states plus observers.

3. In line with the above, the Rules of Procedure for the enlarged Assembly are modified as follows:

- Part III.1, add "or a Vice-President" after "the President";
- Part III.1, delete the second sentence;
- Part V. 5, align speaking times with those in the Assembly, i.e. persons speaking on behalf of committees 3 minutes;
- Part VI. 3, add at the end "Sub-amendments must be tabled at least one hour before the end of the previous sitting of the same part-Session preceding that in which the debate begins", same rule as for the Assembly;
- Part VI. 5, 1 minute instead of 3 minutes;
- Part VIII. 2, change "ten members" to "thirty members" and "three parliamentary delegations" to "five parliamentary delegations";
- Part IX. 6, replace "three minutes" by "one minute".

Please note that on page 154 of the Rules, at the end of Part VI. 3, it should read (in English only) " ... and, as regards amendments, by 7 pm on the eve of the debate".

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Forced marriages and child marriages

Resolution 1468 (2005)[1]

1. The Parliamentary Assembly is deeply concerned about the serious and recurrent violations of human rights and the rights of the child which are constituted by "forced marriages" and child marriages.

2. The Assembly observes that the problem arises chiefly in migrant communities and primarily affects young women and girls.

3. It is outraged by the fact that, under the cloak of respect for the culture and traditions of the migrant communities, there are authorities which tolerate forced marriages and child marriages although they violate the fundamental rights of each and every victim.

4. The Assembly defines forced marriage as the union of two persons at least one of whom has not given their full and free consent to the marriage.

5. Since it infringes the fundamental human rights of the individual, forced marriage can in no way be justified.

6. The Assembly stresses the relevance of United Nations General Assembly Resolution 843 (IX) of 17 December 1954 declaring certain customs, ancient laws and practices relating to marriage and the family to be inconsistent with the principles set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights.

7. The Assembly defines child marriage as the union of two persons at least one of whom is under eighteen years of age.

8. The Assembly deplores the drastic effects of marriage on married children. Child marriage in itself infringes their rights as children. It is prejudicial to their physical and psychological welfare. Often an obstacle to school attendance, child marriages may be prejudicial to children's access to education and their intellectual and social development, in that they restrict their horizon to the family circle.

9. The Assembly is appalled to find that some national legislation permits the marriage of minors, sometimes in a discriminatory fashion with gender-based differences in minimum ages.

10. Such marriages should, in fact, no longer take place in our societies that uphold human rights and the rights of the child. In that respect, the Assembly concurs with the considerations set out in the 1962 United Nations Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage which reaffirms "that all States, including those which have or assume responsibility for the administration of Non-Self-Governing and Trust Territories until their achievement of independence, should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, inter alia, complete freedom in the choice

[1] *Assembly debate* on 5 October 2005 (29th Sitting) (see Doc. 10590, report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Zapfl-Helbling and Doc. 10678, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Bargholtz). *Text adopted by the Assembly* on 5 October 2005 (29th Sitting).

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of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded".

11. The right to marry is recognised in Article 12 of the European Convention on Human Rights. The Assembly nevertheless recalls the further provision in this Article for the exercise of this right to be governed by national laws.

12. It therefore stresses the need to take the requisite legislative measures to prohibit child marriage by making 18 years the minimum marriageable age. Thus, persons not having reached that age would not be able to lawfully contract marriage.

13. The Assembly therefore recommends that Council of Europe member states take the following legal measures regulating the right to marry:

13.1. ratify the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, if they have not yet done so;

13.2. ratify the 1979 Convention on the Elimination of All Forms of Discrimination against Women and the amendment and protocol thereto, if they have not yet done so;

13.3. ensure their compliance with Council of Europe Committee of Ministers' Recommendation Rec(2002)5 on the protection of women against violence.

14. The Assembly urges the national parliaments of the Council of Europe member states to:

14.1. renegotiate, discard or denounce any sections of international agreements and rules of international private law contrary to the fundamental principles of human rights, particularly as regards personal status;

14.2. adapt their domestic legislation, if appropriate, so as to:

14.2.1. fix at or raise to eighteen years the minimum statutory age of marriage for women and men;

14.2.2. make it compulsory for every marriage to be declared and entered by the competent authority in an official register;

14.2.3. institute an interview between the registrar and the bride and groom prior to the celebration of the marriage and allow a registrar who has doubts about the free and full consent of either or both parties to summon either or both of them separately to another meeting;

14.2.4. refrain from recognising forced marriages and child marriages contracted abroad except where recognition would be in the victims' best interests with regard to the effects of the marriage, particularly for the purpose of securing rights which they could not claim otherwise;

14.2.5. facilitate the annulment of forced marriages and possibly automatically annul such marriages;

14.2.6. lay down a maximum period of one year, in so far as practicable, to investigate and rule on an application for annulment of a forced marriage or a child marriage;

14.3. regard coercive sexual relations undergone by victims of forced marriages and child marriages as rape;

14.4. consider the possibility of dealing with acts of forced marriage as an independent criminal offence, including aiding and abetting the contracting of such a marriage.

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Language problems in access to public health care in the Brussels-Capital region in Belgium

Resolution 1469 (2005)[1]

1. Language being an important factor in the quality of health care, it is indispensable that there is satisfactory understanding between the patient and medical and nursing staff to avoid compromising the efficacy of medical care which absolutely must remain a priority. Leaving medical and humanist considerations aside, effective communication between patient and doctor in Belgium is presupposed in the current legislation and case-law in the law on patients' rights which entered into force on 6 October 2002.

2. At the same time, access to health care and language problems in the Brussels-Capital region must be considered in the general context of Belgium's constitutional development and its complex language situation which is the result of historical events and compromises reached through lengthy negotiations.

3. After several successive legislative and constitutional reforms, starting in the early 1960s, Belgium has changed from a decentralised unitary structure into a federal state composed of three communities, three regions and four language regions (three monolingual and one bilingual).

4. The Brussels public hospitals operate under local authority supervision and are subject to fairly strict rules on bilingualism. Numerous administrative, political and judicial controls are carried out to ensure that these rules are effectively applied. In practice, however, strict application of these rules is not always easy to guarantee, for the following reasons in particular:

4.1. the general level of bilingualism unfortunately remains rather low in the Brussels region;

4.2. there is strong competition to recruit qualified staff due to the attraction exerted by the hospitals located in Flemish Brabant.

5. The solution to the problem evidently lies not in a reform of the language legislation but rather in enforcement of the provisions of the legislation on language use in administrative matters.

6. The Parliamentary Assembly considers that language problems in access to health care in the Brussels-Capital region can only be solved if all the efforts currently being made to create all the conditions for a strengthening of bilingualism in Brussels hospitals are continued in the same spirit of goodwill, openness, tolerance, pragmatism and flexibility so as to foster peaceful cohabitation of the different language groups.

[1] *Assembly debate* on 7 October 2005 (32nd Sitting) (see Doc. 10648, report of the Social, Health and Family Affairs Committee, rapporteur: Mrs Cliveti and Doc. 10680, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Cilevičs). *Text adopted by the Assembly* on 7 October 2005 (32nd Sitting).

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7. Accordingly, the Assembly recommends to the political representatives of the language communities in the Brussels-Capital region to:

7.1. increase the administrative and judicial means of guaranteeing bilingualism in Brussels hospital services while respecting the fundamental principle of continuity of public services;

7.2. evaluate and streamline the supervisory mechanisms for guaranteeing bilingualism and enforcing the language legislation in order to increase their effectiveness;

7.3. avail themselves of the necessary means to develop the supply of bilingual staff in the Brussels hospitals;

7.4. ensure that bilingual staff are in place in reception services and make efforts to provide a better welcome for Dutch-speaking patients;

7.5. to pay urgent attention to the need to ensure effective bilingualism in emergency services, in order to avoid potentially life-threatening consequences of misunderstandings;

7.6. to investigate the reasons for the lack of enthusiasm of Dutch-speaking health-care professionals for practicing in Brussels, to promote traineeships for Dutch-speaking students in Brussels hospitals, to spread information about vacancies to bilingual professionals who may be interested in working in Brussels, to promote "networking" between bilingual general practitioners and bilingual specialists working in hospitals and to improve language training possibilities in Brussels hospitals;

7.7. set up a network of bilingual doctors;

7.8. set in place a language training programme in medical schools of the region;

7.9. strengthen and better define the responsibility of hospitals as a public service.

8. The Assembly further invites the Belgian Government to:

8.1. encourage cultural communication and co-operation across the language barriers in Belgium;

8.2. ratify the Framework Convention on the protection of National Minorities, in keeping with Assembly Resolution 1301 (2002) and to withdraw the reservations expressed when it signed it, in such a way as to complement the existing language arrangements with the application of relevant provisions of the Framework Convention in order to ensure the best possible quality of health care for all inhabitants of the greater Brussels region.

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The costs of the Common Agricultural Policy

Resolution 1470 (2005)[1]

1. The Parliamentary Assembly recognises that the Common Agricultural Policy (CAP) of the European Union (EU) is a policy determined by the circumstances of post-war Europe to safeguard and ensure its food supply. Those circumstances have changed. It is time to reconsider the CAP in the light of its costs and effects, not only in Europe but also for developing countries, and to take more account of the non-economic effects of agriculture.

2. The Assembly recalls its Resolution 1322 (2003) on "Challenges for a new agricultural policy" and notes that the CAP has met its original aims of guaranteeing food supplies and income for farmers. It has also promoted rural development and has been beneficial to rural communities, particularly in protecting Europe's cultural heritage and traditions.

3. Agriculture has been in difficulty in Europe for some years. The number of people it employs and its relative contribution to the Gross Domestic Product, within the limits of that definition, are in decline. Young people are no longer attracted to this activity which has been overtaken in its contribution to the economy by other sectors.

4. The Assembly welcomes the recent package of CAP reforms as a tentative step forward in addressing the challenges faced by the CAP and refocusing on the protection of the environment and animals and on its social effects. The new reform is an opportunity for farmers to improve their services to consumers, the environment and rural areas, and to offer fresh prospects to farming families.

5. There is a need for a shift in focus to tackle some of the negative effects of the CAP and the problems caused to developing countries, consumers, industry and the environment.

6. In developing countries, agriculture is often the main economic activity. These countries mostly carry out a traditional agriculture, aimed at home consumption and the local markets, whose future is threatened. It is subject to competition, also on the local markets, from commodities produced by major agricultural and food-processing companies, many of them multinationals. Rural populations are drifting into the cities, where there is too often a dearth of job opportunities, housing and services, which result in serious social problems.

7. The governments of developing countries endeavour to secure hard currency to be able to import goods and services from developed countries and despite the problems this causes on the domestic front, they give precedence to major enterprises able to export agricultural products. This policy suffers from restrictions to free trade imposed by advanced economies such as those of the United States and the European Union. The Assembly observes these contradictions and notes the need for the EU to shoulder its responsibility for the complex effects of its agricultural policy on developing countries.

[1] *Assembly debate* on 7 October 2005 (32nd Sitting) (see Doc. 10649, report of the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mr Flynn). *Text adopted by the Assembly* on 7 October 2005 (32nd Sitting).

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8. The Assembly recalls Resolution 1449 (2005) on "The environment and the Millennium Development Goals" and notes that agriculture can be a major force in reducing poverty by improving employment prospects and creating wealth. However, the EU must carefully assess the effects of its agricultural policy both within Europe and in developing countries and take appropriate action to meet its commitments to reach the Millennium Development Goals, including through its agricultural policy.

9. The negative effects of the CAP are clear in the impact that the European Union's sugar regime has had on many developing countries, where sugar can be produced more cheaply and easily. The Assembly condemns the EU sugar regime for awarding large subsidies to already highly profitable companies and hindering the ability of developing countries to escape from poverty. While providing aid to developing countries, potential income is cut through trade restrictions. This situation is no longer tenable.

10. The Assembly notes that consumers in the European Union pay twice for the Common Agricultural Policy: through taxation and farmers and consumers are the victims of this policy, with lower income for farmers and high food bills for consumers.

11. The CAP remains a significant burden on the budget of the European Union, while other challenges demand new resources, such as scientific research, territorial cohesion, common defence, etc. The use of CAP resources must not become counterproductive and therefore its effects on manufacturing industries must be taken into account as they can be very negative at times, like the case of the sugar industry. Some CAP schemes have had a negative impact on linked industries causing the loss of jobs, such as job losses amongst manufacturers of sugar-based products.

12. In addition, there is concern about the way subsidies are distributed. Large financial awards are being made to the largest farms, dispelling the idea that the CAP protects the smallest farmers. The decision by the United Kingdom Department for Environment, Food and Rural Affairs to publish the recipients of subsidies (names and amount received) in March 2004 is to be welcomed. It is revealing that the CAP does not primarily help small farmers.

13. The Assembly regrets that some elements of the CAP which have promoted intensive farming, alongside developments in technology, have also indirectly contributed to the destruction of habitats, pollution and decline in bird and animal species dependent on those habitats for their survival. Bird species have been recognised as indicators of this. Across Europe, the population of many farmland birds have been severely damaged as a result of this trend. For instance, the population of a farmland bird, the skylark, has declined by 52% in the UK.

14. Without further reform, the Assembly is concerned about the long-term future of bird and animal species in Europe and the resources needed to repair the environmental damage caused by intensive farming.

15. New Zealand offers an example of what can happen when subsidies are removed. Subsidies became unsustainable and were removed in 1984. It is notable that agriculture in New Zealand did not go into decline, productivity improved, environmental damage was reversed and the industry now responds to market and consumer demand. Important lessons can be learned from this example, even though the situation of agriculture in many parts of Europe cannot be compared with that in New Zealand in terms of rural population density, production tradition and complexity, links between agriculture and other local sectors such as tourism and the links between agriculture and landscape and environmental quality.

16. Switzerland offers a contrasting example combining high subsidies with environmental protection. This principle is incorporated in the Swiss Constitution. The integration of such concern into agricultural policy would be wise, and subsidies are not handed out to farmers with high incomes. Swiss agricultural policy, although costly, is most noteworthy above all because it also rewards farmers for the functions of care for the environment and upkeep of the landscape that their activities may entail.

17. Consequently, the Assembly recommends that the institutions and member states of the European Union consider the following issues in the current and any future reform of the CAP:

17.1. the impacts that the CAP has had on developing countries, the environment, consumers, taxpayers and other industries and how to address them;

17.2. the urgent need to address the effect of the CAP on developing countries, particularly through schemes such as the EU sugar and tobacco regimes;

17.3. the important lessons that can be learned from the New Zealand and Switzerland examples;

17.4. the role that agricultural policy can play in promoting rural development, protecting cultural heritage, traditions and landscapes;

17.5. the need to develop a more efficient and fair system remunerating the non-economic services supplied by farmers: the protection of the environment and of animals, the maintenance of landscape, their contribution to the social and economic life of the outlying regions and preservation of water, air and soil as life's essential elements;

17.6. the need to require the publication of all aid recipients and amounts received to introduce greater transparency and accountability;

17.7. the need for reform to encompass all interests and not just those of the farming sector;

17.8. the need to focus on the environment, particularly in the context of imminent problems predicted as a result of climate change, and on society by occupying the whole territory to ensure its upkeep;

17.9. the expediency of devising a system of subsidies according to land area and taking account of farmers' assets and income so that small farms are afforded better protection.

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Accelerated asylum procedures in Council of Europe member states

Resolution 1471 (2005)[1]

1. In recent years, member states of the Council of Europe have come under increasing pressure to process asylum claims in a rapid and efficient manner. This has led to the introduction of a variety of accelerated asylum procedures across Europe. While the expression "accelerated asylum procedures" may appear simple at first sight, it covers a variety of cases and consists of a variety of procedures.

2. The need for states to process asylum application in a rapid and efficient manner, however, needs to be balanced by the obligation to provide access to a fair asylum determination procedure for those who are in need of international protection. A "balance", though does not mean a "compromise" as states cannot in any circumstances compromise over their international obligations, including under the Geneva 1951 Convention relating to the Status of Refugees (Refugee Convention) and its 1967 Protocol and the 1950 European Convention on Human Rights and its Protocols.

3. There is no common definition of "accelerated asylum procedures" at international or regional level. The expression simply indicates that some applications are processed in a faster way than others.

4. A first attempt to harmonise asylum procedures, including accelerated procedures, has been made by the European Union and political agreement has been reached on an amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. This proposal has, however, been heavily criticised by various sources, including by the UNHCR, NGOs and also by the European Parliament. It has been said of the proposal that it brings together a number of restrictive and highly controversial practices, using as a base the lowest common denominators. At the heart of concerns is a fear that the proposal does not guarantee that every asylum application will be dealt with in a proper and fair examination and that an effective remedy will not be available in all circumstances. The fear is that this will lead to *refoulement* along with the risk of violations of the rights of asylum seekers under the European Convention on Human Rights and other European and international treaties.

5. The large variety of cases of accelerated procedures and the large number of different procedures applied in member states of the Council of Europe increases the risk of asylum procedures in Europe becoming a lottery for asylum seekers, with the level of protection, and likelihood of recognition, depending on the type of procedure applied in the country in which asylum is sought.

[1] *Assembly debate* on 7 October 2005 (32nd Sitting) (see Doc. 10655, report of the Committee on Migration, Refugees and Population, rapporteur: Mr Agramunt). *Text adopted by the Assembly* on 7 October 2005 (32nd Sitting).

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6. While the European Union has taken a first step in seeking to harmonise asylum procedures, including accelerated procedures, through its Proposal for a Council Directive, this has not gone far enough and urgent steps are needed to provide guidelines of best practice on the application of accelerated procedures in member states of the Council of Europe. These guidelines are needed either on accelerated procedures as a whole or on particularly problematic aspects of accelerated procedures.

7. Aspects of accelerated procedures, which are particularly problematic, are fourfold. They include the application of the notion of the safe country of origin, the application of the principle of safe third country, including the concept of "super safe third country", procedures adopted at the border for dealing with asylum seekers and the right of appeal with suspensive effect. Linked to these four areas where accelerated procedures may be applied are a number of particular concerns. They include the danger of *refoulement*, the particular situation of vulnerable groups, such as children or victims of torture or sexual violence or trafficking, and the denial of access to basic procedural safeguards, such as the right to legal advice and representation, the right to a personal interview and the right to obtain an interpreter.

8. Consequently, the Parliamentary Assembly invites the governments of the member states of the Council of Europe:

8.1. as regards the general use of accelerated procedures, to:

8.1.1. ensure a balance between the need to process asylum applications in a rapid and efficient manner and the need to ensure there is no compromise over international obligations including under the 1951 Refugee Convention and its 1967 Protocol and the 1950 European Convention on Human Rights and its Protocols;

8.1.2. ensure that the principle of *non-refoulement*, which is the corner-stone of international refugee protection, is ensured, namely that "no Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion" (Article 33 of the 1951 Refugee Convention);

8.1.3. limit the use of accelerated procedures to cases which are clearly well founded, allowing a swift positive decision on the asylum application or those cases which are clearly abusive or manifestly unfounded;

8.1.4. take fully into account that acceleration of manifestly unfounded or clearly abusive cases could, in certain circumstances, most effectively occur at the appeal level, through shorter but reasonable time limits for submitting an appeal;

8.1.5. apply minimum procedural guarantees equally for all asylum applications;

8.1.6. ensure the quality of decision-making at first instance level as one of the best ways of speeding up the asylum process;

8.2. as regards the concept of safe country of origin, to:

8.2.1. ensure that clear and demonstrable safeguards are adopted to guarantee an effective access to an asylum determination procedure which can lead to the granting of refugee status or other forms of international protection;

8.2.2. ensure that the burden of proof does not switch to the applicant to prove that a country is unsafe and that the applicant has an effective opportunity to rebut the presumption of safety;

8.2.3. take great caution in adopting, in the context of the proposal for a Council Directive, a list of safe countries of origin which may lead to a lowering of standards of protection for asylum seekers from the countries concerned and could undermine the underlying concept of refugee protection, which is based on the individual situation of the asylum seeker rather than a general analysis and judgement on the country ;

8.2.4. ensure adequate safeguards are in place when designating a part of a country as safe, to ensure that this provides a reasonable flight alternative;

8.2.5. ensure that the use of the concept of safe country of origin should be kept to a minimum;

8.3. as regards the concept of safe third country, including the concept of "super safe third country", to:

8.3.1. take note that the European Court of Human Rights has made it clear in the case TI against the United Kingdom, Admissibility decision of 7 March 2000, Application No. 43844/98, that the application of the concept of a safe third country does not release a country from its duties under Article 3 in relation to freedom from torture, inhuman or degrading treatment or punishment even under the Dublin Convention concerning the State responsible for examining applications for asylum;

8.3.2. ensure that the use of this concept be kept to a minimum and that each individual claim should be examined with the following safeguards, thus building on Recommendation No. R (97) 22 of the Committee of Ministers to member states containing guidelines on the application of the safe third country concept:

8.3.2.i. ratification and implementation by the third country of the 1951 Refugee Convention and other relevant international human rights treaties, including the European Convention on Human Rights for European states;

8.3.2.ii. existence of an effective asylum procedure in law and in practice in the third country;

8.3.2.iii. genuine and close links between the applicant and the third country;

8.3.2.iv. express agreement of the third country to accept the applicant and to provide a full and fair determination procedure and protection from *refoulement*;

8.3.2.v. the burden of proof regarding the safety of a third country for an individual asylum seeker should be on the country of asylum and there should be the possibility for the asylum seeker to rebut the presumption of safety;

8.3.2.vi. exclusion of vulnerable persons, including separated children and persons suffering from trauma as a result of torture or other ill-treatment, including sexual and gender-based violence, from the application of the safe third country concept;

8.4. as regards border applicants, to:

8.4.1. ensure, in accordance with the principle of non-discrimination, that all asylum seekers are registered at the border and given the possibility of lodging a claim for refugee status;

8.4.2. ensure that all asylum seekers, whether at the border or inside the country benefit from the same principles and guarantees in terms of their request for refugee status;

8.4.3. ensure adoption of clear and binding guidelines on treatment of asylum seekers at border points, in accordance with international human rights and refugee law and standards;

8.5. as regards the right of appeal with suspensive effect: to ensure that the right to an effective remedy under Article 13 of the European Convention on Human Rights is respected, including the right to lodge an appeal against a negative decision and the right to suspend the execution of measures until the national authorities have examined their compatibility with the European Convention on Human Rights;

8.6. as regards undocumented applicants or applicants with forged documents: to ensure that the lack of documentation or the use of forged documentation does not, in itself, make a claim fraudulent or bring about a rejection of the claim;

8.7. as regards time limits: to refrain from automatic and mechanical application of short time limits to lodge an application, taking into account the findings of the European Court of Human Rights in the case of Jabari against Turkey, Judgment of 11 July 2000, Application No. 40035/98, in which it was held that the automatic and mechanical application of a short time limit of five days for submitting an asylum application was at variance with the fundamental value embodied in Article 3 of the Convention;

8.8. as regards the duration of the procedure: to ensure that speed is not given priority over fairness, and that a reasonable time frame is established that guarantees access to essential procedural safeguards;

8.9. as regards the use of accelerated procedures for applicants representing a danger to national security or to public order, or where consideration is given to the application of the exclusion clauses under Article 1 F of the Refugee Convention: to ensure that such cases are exempted from accelerated procedures, and to ensure access to procedural guarantees taking due note of the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers of the Council of Europe on 11 July 2002, as well as Recommendation (2005) 5 of the Committee of Ministers to member states on exclusion from refugee status in the context of Article 1F of the Convention relating to the status of Refugees of 28 July 1951.

8.10. as regards the individual determination and interview of all asylum seekers, to:

8.10.1. respect the well-established principle that asylum seekers have the right to an individual determination of refugee status;

8.10.2. ensure the right of all asylum seekers to a personal interview in a language they understand, together with the possibility of free legal aid at the first instance hearing and throughout the appeal process;

8.11. as regards exemptions from accelerated procedures: to ensure that certain categories of persons be excluded from accelerated procedures due to the vulnerability of the persons concerned and the complexity of the case, namely separated children / unaccompanied minors, victims of torture and sexual violence and trafficking, and also cases raising issues under the exclusion clauses of the 1951 Refugee Convention;

8.12. as regards detention:

8.12.1. to ensure that in general asylum seekers should not be detained. If they are detained it should be the exception and for a minimal period;

8.12.2. if asylum seekers are to be detained, to ensure that they should be kept apart from those facing criminal conviction or having been convicted of criminal offences; furthermore, access to an effective legal assistance at all stages of the procedure, access to the services of competent and qualified interpreters should be systematically granted;

8.12.3. to ensure that grounds for detention be limited and exhaustively listed with appropriate safeguards, including those under Article 5 of the European Convention on Human Rights;

8.12.4. to allow monitoring by independent organisations of detention places, including international transit zones;

8.13. as regards social conditions, to provide adequate social assistance, including medical assistance, for asylum seekers throughout the process of their claim, including during the appeal stage;

8.14. as regards the decision-making process, to ensure that all officials dealing with asylum seekers receive relevant training and access to sources of information and research in order to carry out their work in a gender and age sensitive manner and with due consideration to the particular situation of victims of torture and ill-treatment including victims of sexual or other forms of gender-based violence;

8.15. as regards the UNHCR's role, to facilitate its monitoring and capacity-building activities with respect to the asylum procedure in general, and the accelerated asylum procedures in particular, and to ensure access by UNHCR to key areas including border areas.

9. The Assembly also invites the Council of the European Union to take into account the above-mentioned concerns in relation to the use of accelerated procedures when discussing further the adoption of an amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. The Assembly also invites the Council of the European Union to take into account the relevant comments and criticisms raised by the European Parliament, the UNHCR and NGOs in relation to the proposal for a Council Directive.

10. The Assembly furthermore invites the UNHCR to continue its important monitoring and capacity-building work, in line with its supervisory role, including its activities in training officials dealing with asylum seekers at national and regional level.