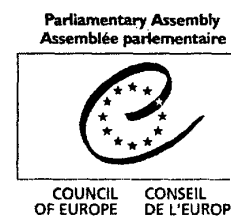


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2005 ORDINARY SESSION

(Fourth part)

REPORT

Twenty-fifth sitting

Monday 3 October 2005 at 3 p.m.

In this report:

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

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

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

1. Resumption of the 2005 Ordinary Session

THE PRESIDENT. – The 2005 session of the Parliamentary Assembly of the Council of Europe, adjourned on Friday 24 June 2005 at the end of the 24th sitting, is now resumed.

2. Voting cards and the register of attendance

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

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

Thirdly, I remind you to switch off mobile phones during sittings of the Assembly and during committee meetings.

3. Opening remarks by the President

THE PRESIDENT (Translation). – Since we last met in June, terrorism has again struck at the heart of a European city. On the morning of 7 July, four suicide bombers blew themselves up in the midst of the crowds of people using central London's public transport system. Fifty-two innocent people were killed and hundreds injured.

In September, we commemorated the anniversaries of the terrorist outrages in Beslan and the attacks on New York and Washington. November will mark the second anniversary of the wave of bombings in Istanbul.

The Council of Europe, playing to its strengths in standard setting and legal harmonisation, has made significant contributions to reinforcing the fight against terrorism, notably in the form of the Convention on the Prevention of Terrorism. This important convention was opened for signature during the Warsaw Summit in May, but has not yet been ratified by a single member state, although several have signed it.

Recently, the United Nations Security Council adopted Resolution 1624, which echoed Article 5 of this convention in calling on states to adopt measures to prohibit and prevent incitement to commit terrorist acts. The resolution was presented by the United Kingdom, one of the countries that signed our convention in Warsaw. I hope that Resolution 1624 will strengthen the determination of Assembly members to urge their governments to sign and ratify the convention, as a matter of priority.

Unfortunately, I cannot welcome everything that the British Government has proposed. Indeed, I was obliged to state publicly my concern at recent statements by the United Kingdom Home Secretary. Mr Clarke had suggested that if the European Court of Human Rights found United Kingdom anti-terrorism legislation to be in violation of the European Convention on Human Rights, Britain would be forced to reconsider whether it should remain a party to the Convention. The effectiveness of the Convention, which lies at the heart of the Council of Europe's human rights protection system, depends upon its court. We must always uphold its integrity. I will be raising these issues when I visit London next week.

The promotion of intercultural and inter-religious dialogue must also be an essential element of our strategy. The Council of Europe wants to play a leading role in promoting understanding between different cultures and religions and is in a position to do so. This Assembly must also play its part and can do so as the only pan-European parliamentary assembly.

This week, we will be able to contribute to the process thanks to the participation of Mr Ihsanoglu, marking the first time ever that this Assembly has welcomed such an eminent representative of the Islamic world.

(The speaker continued in English)

Over the summer, I visited some of the newer European democracies – namely Ukraine, Armenia, Georgia and Azerbaijan – as had been my intention since taking office. Following my visit, I am glad to see that the constitutional reform process in Armenia has continued to make progress. I also hope that the

elections in Azerbaijan are conducted in the manner we expect, and that Georgia respects all deadlines for honouring obligations and commitments. Equally, I hope that Ukraine is able to come through this transition period and call on all democratic forces to behave in a responsible manner in the run-up to the parliamentary elections early next year.

In October, I will also be visiting Albania, following the parliamentary elections that saw our colleague, Mr Berisha, become Prime Minister.

I should also inform you that when I was in New York for the second World Conference of Speakers of Parliament, I received an invitation to visit Belarus. Belarus is certainly not up to our democratic standards, but I am not in favour of the splendid – or perhaps not so splendid – isolation of this country from democratic Europe. I will intensify my efforts to promote democracy in Belarus, in co-operation with the competent Assembly committees.

This week, we will also be reflecting on the process of political integration in our own continent, in the form of the EU's new neighbourhood policy. I very much look forward to the contribution to this debate of Mr Elmar Brok, Chair of the European Parliament's Committee on Foreign Affairs, marking a sign of increasing co-operation between our two Assemblies. The new neighbourhood policy should be a great opportunity for the Council of Europe. By sharing our many years of experience and our unrivalled expertise, we can further enhance our co-operation with the European Union by contributing to the development, implementation and assessment of its external policies.

The European Commission's proposal for an EU Fundamental Rights Agency, which came out at the very end of June, is another source of challenge for the Council of Europe. It is essential that the agency does not duplicate activities already undertaken by the Council of Europe. I would strongly urge all of you from EU member states to promote the position developed by this Assembly so as to ensure that your governments do not agree to anything that would undermine the Council of Europe's position, in particular as regards the duplication of the Council of Europe's work in non-member states of the European Union.

On this note, I can assure members that I and the leaders of all political groups will be playing our part in promoting the interests of the Assembly and of the Council of Europe in general when we meet our counterparts of the European Parliament on 20 October in Brussels. The Warsaw Summit gave a clear direction and a new impetus to the Council of Europe. As part of the follow-up to the summit there have been several important recent developments. First, the Committee of Ministers has now appointed the wise persons who will draw up a comprehensive strategy to secure the long-term effectiveness of the European Convention on Human Rights. This list was drawn up following consultations between the Chair of the Committee of Ministers and myself on behalf of the Assembly. It has now been agreed that the Forum for the Future of Democracy will hold its launch meeting in Warsaw on 3 to 4 November, the theme being civic participation. This will be an excellent opportunity for reinforcing links with civil society. I will attend, as will the Political Affairs Committee sub-committee.

Finally, I would like to pay tribute to Simon Wiesenthal, who died on 20 September at the age of 96. Mr Wiesenthal devoted five decades of his life to hunting war criminals. Today, there are still war criminals at large, and we too must be relentless in our efforts and in our commitment to bringing them to justice. Whatever other issues may complicate our agenda, we must never forget that the principles that inspired Simon Wiesenthal are the principles that underlie our own organisation and that remain as valid and important now as they have ever been.

4. Examination of credentials

THE PRESIDENT. – The first order of the day is the examination of credentials of new members submitted in accordance with Rule 6. The names are in Document 10682. If no credentials are contested, the credentials will be ratified.

Are any credentials contested? That is not the case. The credentials are ratified.

5. Election of a Vice-President

THE PRESIDENT. – The next order of the day is the election of a Vice-President of the Assembly in respect of Moldova, whose seat is vacant.

In accordance with Rule 14, the chairperson of the national delegation of Moldova has proposed Mrs Maria Postoico.

If there is no request for a vote, Mrs Postoico will be elected.

Since there has been no request for a vote I declare that Mrs Postoico is elected as a Vice-President of the Assembly.

I congratulate Mrs Postoico on her election. She will take precedence following the Vice-Presidents already elected.

6. Changes in the membership of committees

THE PRESIDENT. – Our next business is to consider the changes proposed in the membership of committees. These are set out in Document Commissions (2005) 8.

Are the proposed changes in the membership of the Assembly's committees agreed to?

The nominations are approved and the committees are appointed accordingly.

7. Written declaration

THE PRESIDENT. – In accordance with Rule 53 of the Rules of Procedure a written declaration No. 369 on absolute anti-torture protection undermined by the proposed counter-terror measures in the United Kingdom, Document 10695, which has been signed by 22 members has been printed.

Any Representative or Substitute may add his signature to this written declaration in the Table Office, Room 1083. If any names are added, the declaration will be distributed again two weeks after the end of the part-session, with all of the accumulated signatures.

8. Requests for urgent procedure and current affairs debates

THE PRESIDENT. – Before we examine the draft order of business, the Assembly needs to consider two requests for debate under urgent procedure provided for in Rule 50 of the Rules of Procedure.

The first request for urgent procedure was submitted in due form under Rule 50 by the Committee of Ministers and concerns the opinion on the draft Framework Convention of the Council of Europe on the value of cultural heritage for society.

At its meeting this morning, the Bureau approved this request, and therefore recommends to the Assembly that the matter be placed on the order of business for this part-session. If the Assembly agrees with the Bureau's proposal, the Bureau proposes to hold the debate and vote as the third item on the afternoon of Thursday 6 October.

Does the Assembly agree to the recommendation of the Bureau that a debate on the opinion on the draft Framework Convention on the Council of Europe on the value of cultural heritage for society should be placed on the order of business for this part-session?

Is there any objection?

I call Mr Wodarg.

Mr WODARG (*Germany*) said that he objected to the request for urgent procedure, as the Committee on Culture, Science and Education had not had an opportunity to review the draft framework. It was controversial and ought not to be discussed in the Assembly until the committee had been given an opportunity to review it.

THE PRESIDENT. – There is objection to the proposal for an urgent procedure debate on the draft Framework Convention of the Council of Europe on the value of cultural heritage for society. Under Rule 50, the Assembly itself must now decide on the question of urgency.

On the request for urgent procedure only the following may be heard: one speaker for the request, one speaker against, the chairperson of the committee concerned – in this case, the Chairperson of the Committee on Culture, Science and Education – and a representative of the Bureau speaking in its name.

Mr Wodarg spoke against the request.

I call Mrs de Melo.

Mrs DE MELO (*Portugal*) said that this was an important text which the Portuguese delegation believed the Assembly should have the opportunity to discuss.

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

Mr WODARG (*Germany*) said that serious thought should be given to the consequences of the proposal for member states; for example, the effect on construction projects. He noted that there were already many applicable rules and regulations. He requested that the Assembly discuss the issue in committee instead of during the part-session.

THE PRESIDENT. – Thank you. I now ask the Vice-Chair of the Committee on Culture, Science and Education, Mr Jařab, to speak.

Mr JAŘAB (*Czech Republic*). – We have discussed the matter in the committee, and I understand that the committee is ready to prepare the document for the urgent debate.

THE PRESIDENT. – Thank you. I remind the Assembly that the Bureau is in favour. We will now vote on the request for the urgent procedure. I also remind the Assembly that the decision would require a two-thirds majority.

The vote is open.

There is not a two-thirds majority in favour, so the request for the urgent procedure is rejected.

The second request for urgent procedure was submitted in due form under Rule 50 by at least 20 members of the Assembly and concerns Europe and bird flu – preventative health measures.

At its meeting this morning, the Bureau approved this request, and therefore recommends to the Assembly that the matter be placed on the order of business for this part-session. If the Assembly agrees with the Bureau's proposal, the Bureau proposes to hold the debate and vote as the first item on the afternoon of Thursday 6 October.

Does the Assembly agree to the recommendation of the Bureau that a debate on Europe and bird flu – preventative health measures should be placed on the order of business for this part-session?

Does anyone wish to speak against the recommendation?

That is not the case.

The Bureau's recommendation is accepted, and the request for urgent procedure is therefore approved.

Following the usual practice of the Assembly, the Bureau proposes under Rules 24.2 and 33.1 that the question of Europe and bird flu – preventative health measures be referred to the Social, Health and Family Affairs Committee for report, and to the Committee on the Environment, Agriculture and Local and Regional Affairs for opinion.

Is this agreed? The reference is agreed to.

9. Adoption of the order of business

THE PRESIDENT. – The next order of the day is the adoption of the order of business for the fourth part of the 2005 Ordinary Session.

The draft order of business which is submitted for the Assembly's approval was brought up to date by the Bureau on 1 September and this morning, and an updated draft order of business was issued earlier today.

Arrangements for organisation of debates, speakers lists and tabling of amendments are set out in today's notice paper.

Is the draft order of business agreed to? It is agreed to.

10. Adoption of the minutes of the Standing Committee

THE PRESIDENT. – The minutes of the Standing Committee in Monaco on 1 September 2005 have been distributed.

I invite the Assembly to take note of these minutes.

11. Progress report

THE PRESIDENT. – The next order of the day is the presentation of and debate on the progress report of the Bureau and the Standing Committee, Document 10687. The list of speakers closed at 1 p.m.; four names are on the list. I call Mr Kosachev to present the progress report. You have eight minutes.

Mr KOSACHEV (*Russian Federation*). – Thank you very much, Mr President. Dear colleagues, I would like to take this opportunity to thank the Monegasque authorities, and especially Mr Valeri, President of the Monaco National Council, and Mr Gardetto, chair of the Monegasque delegation to the Assembly, for their invitation to hold the meetings of the Bureau and Standing Committee in Monaco on 1 September 2005, as well as for their welcome and their hospitality.

We were very pleased to welcome Her Royal Highness Princess Caroline of Hanover, President of the World Association of Children's Friends, who took part in the current affairs debate on "violence and all forms of exploitation and abuse with respect to children".

As you can see in the report, the members of the Bureau have been quite busy since the last part-session. I will not comment on every item in the progress report but will focus on those I consider most important.

The first is the follow-up to Recommendation 1712 on the "follow-up to the 3rd Summit". After the summit, the President wrote to the presidents of national parliaments on 4 June this year, and to heads of national delegations of the Council of Europe member states on 5 July, inviting them and encouraging them to take action to ensure the implementation of the conclusions of the summit.

In the letters the President drew attention to the following areas where input will be crucial: the need to ratify the three conventions opened for signature in Warsaw; the need to apply the principle of subsidiarity in relations between the Council of Europe and the European Union; the need to strengthen and ensure the effectiveness of the European Court of Human Rights; promotion of social cohesion; contribution to the campaign against domestic violence and the youth campaign against racism; and strengthening intercultural and inter-religious dialogue.

So far, seven replies have been received; the Russian reply is to be delivered this week. Therefore I strongly encourage national delegations to step up their efforts and ensure that the decisions of the summit are translated into action in the member states.

Concerning the composition of the group of wise persons on the long-term effectiveness of the European Court of Human Rights, I am pleased to see that Mr Fischbach, proposed by the Assembly, is to be a member of this group.

The launch meeting of the Forum on the Future of Democracy will take place in Warsaw on 3 and 4 November on the theme of "civic participation". The President and the members of the Ad hoc Sub-Committee on the Forum on the Future of Democracy will participate.

The Assembly was also invited to appoint a representative to take part in the task force to combat violence against women.

The Bureau appointed Mr Van den Brande as its representative and Mr Gross as substitute to attend meetings of the Follow-up Committee on the 3rd Summit of the Council of Europe.

The second aspect is the organisation of the work of the Parliamentary Assembly and its committees. The Bureau started to address that very important issue, and in particular the reasons for absenteeism by parliamentarians in the Assembly and committees. The Bureau asked the political groups to discuss this matter first, and decided to come back to the issue during the January 2006 part-session.

Thirdly, another very important issue for the future of the Council of Europe is its communication policy. At its meeting on 1 September in Monaco, the Bureau took note of the memorandum prepared by the Secretary General of the Assembly exclusively devoted to the Parliamentary Assembly's communication policy. This document is the outcome of previous discussions in the Bureau, and summarises the relevant decisions taken. It also contains proposals on co-operation with the Directorate of Communication and Research.

I would add that a motion for a recommendation on enhancing the visibility of the Council of Europe, presented by Mr Van den Brande and others had, at the meeting of the Bureau held on 24 June 2005, been referred to the Political Affairs Committee for report.

A 15-member delegation of the Assembly, headed by Jerzy Smorawiński, from the Polish delegation to the Group of the European People's Party, observed the parliamentary elections held in Albania on 3 July 2005. The preliminary conclusions of the international observation mission considered that they complied only partially with international commitments and standards for democratic elections. The elections were competitive and voters were provided with diverse information. Although the Central Election Commission has so far administered the elections professionally, state and local authorities, and major political parties, have yet to demonstrate the political will that corresponds with their responsibilities for the electoral process.

The parliamentary elections in Azerbaijan will be held on 6 November this year. They are very important for that country's future. It is essential that they are free and fair, and the Assembly must do everything in its power to assist in that. Today, we approved the composition of the ad hoc sub-committee to observe those elections. It will comprise about 40 members, and I hope that things are done properly. A pre-electoral mission will take place from 10 to 14 October.

On elections in the Chechen Republic, the Bureau today took note of the letter from Mr Alkhanov, President of the Chechen Republic, inviting the Assembly to observe the elections on 27 November. The Bureau decided to send a delegation, under Resolution 1402, to be composed of one member from each political group and Mr Gross, Chairman of the Ad hoc Sub-Committee for the Organisation of the Round Table on the Political Situation in the Chechen Republic. It will be involved in a fact-finding mission and will report to the Bureau.

The joint meeting of the presidential committee and Conference of Presidents of the European Parliament will take place in Brussels on 20 October 2005. We propose to discuss the EU neighbourhood policy, the EU Fundamental Rights Agency, and the participation of our Assembly and the European Parliament in quadripartite meetings between the EU and the Council of Europe.

Today, the Bureau took note of the letter from Mr Holovaty containing the list of candidates, in order of preference, for the post of Council of Europe Commissioner for Human Rights, established by the Sub-Committee on Human Rights and endorsed by the Committee on Legal Affairs and Human Rights. We discussed that in the Bureau meeting. The Bureau also authorised the distribution of the sub-committee's report to Assembly members.

On 1 September, the Bureau took note of the letter from the Chairman of the Ministers' Deputies, which submitted to the Assembly the candidature of Mr Mateo Sorinas Belfegó for the post of Secretary General of the Parliamentary Assembly. The election will take place on Wednesday.

On 1 September, the Bureau agreed on the dates on which the meetings of the standing committee and the Bureau will take place in 2006. In particular, I draw colleagues' attention to the Bureau's decision that the April 2006 part-session will take place from Monday 10 April to Thursday 13 April.

Thank you very much for your attention.

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

Mr VAN DEN BRANDE (*Belgium*). – I shall speak in Dutch, which is our mother tongue, Mr President.

(The speaker continued in Dutch)

He thanked Mr Kosachev for an outstanding presentation. This was a progress report and it was obvious that the Assembly's focus on the outcome of the summit in Warsaw must continue. He welcomed the fact that it was accepted that the Assembly had much work to do. The problems of the European Court of Human Rights could not be disregarded. On the occasion of the Warsaw Summit, a lot of attention had been given to the need to respect the objectives of the Assembly. He argued that members of the Assembly should consider themselves as adding value to the political process in Europe. For example, this week the Assembly would discuss the European neighbourhood policy. The Assembly should defend those areas for which it had responsibility. He returned to the subject of the progress report and argued that the Assembly must demonstrate its moral authority. The Warsaw meeting and co-operation with the Committee of Ministers would help tackle these problems. The discussion was no longer one about structures but one about the present state of democracy in Europe.

THE PRESIDENT. – Thank you, Mr Van den Brande. I call Mr Mr Eörsi on behalf of the Alliance of Liberals and Democrats for Europe.

Mr EÖRSI (*Hungary*). – Our Assembly must make an important decision this week when we elect our new Commissioner for Human Rights – it is one of the most important positions in our Organisation. The election has been preceded by conflict between the Committee of Ministers and the Assembly. I do not want to say too much about this, but the Committee of Ministers wanted us to change our laws and to extend the previous arrangements. Let us put that in the past, however, and concentrate on the present and the future. I hope that such pressure will never be exerted again.

Secondly, the three candidates on the shortlist were undoubtedly chosen according to the rules of procedure, but there are some questions to ask. Do we know who the candidates were? Do we know how many candidates were competing, from which the shortlist of three was prepared? Do we know the criteria that the Committee of Ministers applied in reaching the shortlist of three? The answers to my questions are no, no and no.

We speak about a need in the European political arena for increased transparency, but I regret to say that although the Committee of Ministers may have been working according to the rules of procedure, it lacked full transparency. All the candidates for the post of the new Commissioner for Human Rights are good, and I hope that the election will result in a very good choice. But I recommend that the Committee of Ministers review its rules of procedure, and that it amend them so that they are transparent, and so that we can meet the needs of those European people who want a deeper understanding of our activities. I hope that the Assembly will join me in asking – I almost said in putting pressure on – the Committee of Ministers to meet these very important criteria.

You will remember well, Mr President, when the presidential committee visited Kiev and spoke to President Yushchenko. We raised with him the issue of the small village of Selmenec and the opening of the border station. He immediately told his people that this is a very important issue, and he asked them to start implementing this policy immediately. You are of course fully aware of this issue, Mr President, but I am happy to inform my colleagues that everything went smoothly. We experienced something never before experienced in Ukraine. Everything started to work, we were very close to opening the border station, and there was great celebration on the part of the Slovak, Ukrainian and Hungarian Governments, and also of the Council of Europe.

As we know – we will discuss this issue when we deal with the Ukrainian report – there is a crisis of government in Ukraine. Government crises can exist in each of our member countries and that need not be such a big problem, although it may be so in Ukraine. The real problem is that the crisis in Ukraine means that a very good project, started by the previous government – it is not highly political; it is just good for the people – has been suspended. The new government is not dealing with the situation. I call upon our Ukrainian colleagues – I am sure that the Ukrainian representative is listening – please to continue with such good projects. Such projects should not be dependent on government A, B or C. This project was started by a democratic government, and it good for the Ukrainian people and for the Slovakian people; as a result, it is good for us all. That is why I hope that the opening of the border station

at Selmenc, between Slovakia and Ukraine, will continue, no matter what crises governments A, B or C may experience.

THE PRESIDENT. – Thank you. I call Mr Margelov, on behalf of the European Democratic Group.

Mr MARGELOV (*Russian Federation*) said that the European Democratic Group gave a positive assessment of the report on the work of the Assembly. Not much time had passed since June and there had also been a summer break in many western European parliaments. However, a number of critical events underlined the importance of the Assembly. He highlighted the overall process around the 3rd Summit. Although this was mainly a Committee of Ministers event, the Assembly had been very much involved. The binding nature of the results flowed from the Assembly's efforts and it fell to the Assembly to pursue many of the ideas expressed. He welcomed the Bureau's monitoring policy. The Assembly should be aware of the results of ministers' work and discuss the results at a later stage. It was important for the Bureau to co-operate closely with the Committee of Ministers.

The EDG wished the Forum for Democracy a good start. The Bureau had done well to organise the work of committees, delegations, and observers. He also commended the work of the Bureau in advance of the next day's election of the new Commissioner of Human Rights. He was also pleased with the preparation of new reports which dealt with matters which were important to the 800 million inhabitants of the member states as well as to the future of the Council of Europe. He called on the Bureau to continue its good work.

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

Mr POURGOURIDES (*Cyprus*). – As Chairperson of the Sub-Committee on Human Rights, I should like to make the following comments on the progress report. The Group of Wise Persons dealing with the effectiveness of the European Court must be asked to submit its proposals as a matter of great urgency. The volume of cases accumulating before the court is frightening. We must act urgently to avoid a complete breakdown of the whole system.

The Committee on Legal Affairs and Human Rights surely must be given an opportunity to contribute to the work of the Group of Wise Persons. Over the years, the committee has accumulated a wealth of experience on the effectiveness of the court, and the Assembly must take advantage of this expertise.

The ratification of Protocol No. 14 is another matter on which I should like briefly to touch. The President of the Assembly rightly issued a letter requesting the urgent ratification by national parliaments and governments. The results are not entirely satisfactory. The protocol needs to come into force today, not tomorrow. ask the President of the Assembly for another urgent appeal, in the form of either a letter or whatever intervention he deems necessary.

I congratulate the rapporteur. I hope that not only the forthcoming elections in Azerbaijan but the elections that will follow in all other Council of Europe member states will be fair and democratic.

THE PRESIDENT. – Thank you. I call the rapporteur, who has four minutes.

Mr KOSACHEV (*Russian Federation*). – I think there is a good chance that our discussion of the progress made by the Assembly, the Bureau and the Standing Committee will lead to a broader debate on how efficient we are and how much our work is needed.

Colleagues may have seen some very interesting statistics that have been distributed and prepared on the instructions of the Secretary General, relating to attendance at Assembly as well as committee meetings. They are quite alarming. On the surface, everything seems okay. The number of documents adopted by the Assembly and the committees is definitely increasing. In 1993, some 57 documents were adopted; this year, we will adopt about 120. But is that proof that we are working efficiently? I am afraid not.

Let us look around the Chamber. On this first day of our plenary session, perhaps the most important – allowing a broader discussion of what we are doing – attendance is unfortunately very poor. During our last part-session, when the monitoring of Russia was the most interesting issue discussed, just 35% of those who registered in advance actually voted. Only seven or eight people voted on resolutions relating to, for instance, mental health or women in Mexico. We should give thought not just to the number

of meetings and observation missions that take place and the number of documents that we approve, but to the content of our work.

I say, with all respect to the core functions of the Council of Europe – the importance of democracy, the rule of law and human rights is indisputable – that we must identify other issues that are important to those whom we represent here. I am afraid that we do not pay much attention to new threats such as terrorism, uncontrolled migration and trafficking, or to co-operation in the fields of culture, the economy, science and education. That may answer Luc Van den Brande's question about whether we have the moral authority to be a real European organisation.

Some of the thoughts and proposals from today's speakers are extremely important, including what has been said about the issue of parliamentary control over decisions made at the 3rd Summit. I hope that we can return to that issue regularly, perhaps annually. We should also do all that we can to increase the efficiency of the European Court of Human Rights. Tomorrow we shall make an important decision in electing the new Human Rights Commissioner, which in a sense will determine the face of the Council of Europe. I wish all of us good luck in those important missions.

THE PRESIDENT. – Thank you. I can inform the Assembly that we will start discussing the functioning of the institution in January. I ask the political groups and committees to discuss that among themselves. We also want the committees to decide what our priorities should be next year, so that next year's debates accord with those priorities. I shall be meeting the leaders of the national delegations in January, and we shall produce a report on how we should fulfil our double mandate – the mandate that we must fulfil not just in the Assembly but in our national parliaments. That is one of our greatest strengths, and we must ensure that public opinion on our work and on European co-operation is well known.

The progress report of the Bureau and the Standing Committee is approved.

12. Statement by Mr Marian Lupu, Speaker of the Parliament of Moldova

THE PRESIDENT. – We now have the honour of hearing a statement by Mr Marian Lupu, Speaker of the Parliament of Moldova.

(The speaker continued in French)

It was important that Moldova continued to reform its democratic institutions. Moldova was supported by the Council of Europe. Tomorrow, the debate on Moldova would set out a road map for the country's progression towards membership of the Council of Europe.

(The speaker continued in English)

I invite Mr Lupu to speak.

Mr LUPU (*Speaker of the Parliament of Moldova*) (Translation). – Ten years have passed since the day when in this very Chamber, before this august Assembly, the young Moldovan state was the first in the former USSR zone to apply for integration in the great family of European democracies. Today, the Republic of Moldova is still taking the exam in democratic coming of age. It is 10 years since European values and traditions embarked on an irreversible track in Moldova, 10 years during which Moldova has learned not to feel alone on the path of sovereign affirmation.

In a decade of our membership of the Council of Europe, we have managed to make important progress in the practical implementation of democratic principles and values. Nevertheless, we realise that much still remains to be done. A great part of what has already been implemented owes much to the guiding role of the Council of Europe from which the Republic of Moldova can only learn and then apply the lessons. We understand that it is time to complement the final stages of the path upon which we embarked a decade ago and the initial co-operation with the Council of Europe by enlarging and diversifying this partnership.

Thanks to an awareness of the need to resolve the problems faced by Moldovan society, it was possible for the very first time to reach a national consensus in the Moldovan Parliament regarding the implementation of the essential goals for the country's destiny: the reform of democratic institutions; economic development; European integration; and a peaceful settlement of the Transnistrian conflict. Because of the responsibility that the new parliamentary corps accepted before the citizens of Moldova, a

number of actions were launched, including the creation of ad hoc working groups to examine and improve legislation in priority areas that need to be brought in line with European standards.

To ensure greater transparency, which is a fundamental principle of any supreme representative body, it was decided to broadcast live all the plenary sessions of parliament on national radio and television stations, as well as to place on the parliament's official website the verbatim record of these sessions.

Given the need to develop an independent press, we managed to disconnect the media from government authority. A first step in that direction is the executive's renunciation of any meddling in the affairs of newspapers. We have also attached great importance to the enhancement of the principles of the independence and autonomy of the judiciary. Therefore, the majority of members of the high council of the magistracy, which is a guarantor of judicial independence, will be elected henceforth by the general meeting of judges in the Republic of Moldova.

We have also carried out a number of democratic reforms leading us to revise the legislation on the secret services. That deprived them of the right to undertake criminal investigations and to have at their command the preliminary institutions of detention.

In the light of the recommendations of the Venice Commission, the electoral law has been amended by lowering the threshold to enter parliament for different categories of candidates as well as by the introduction of more democratic proceedings for the appointment of members of the central election committee, most of whose members must be proposed by the opposition.

I assure you that these achievements are not limited examples or an epilogue in the efforts to implement reforms. In the autumn session, the Moldovan Parliament has established a programme concerning the legal acts that are to be amended according to the draft resolution of the Monitoring Committee. We have to adjust to European standards on legislation on the judiciary, the prosecutor's office, the functioning of parliament, audio-visual matters and local public administration to name but a few examples. In that context, I welcome the launching of the initiative that will contribute towards respecting our commitments to the Council of Europe and the setting up of the plan of action between the European Union and the Republic of Moldova.

(The speaker continued in English)

As you know, one of the most painful problems that burdens the democratic affirmation of the Republic of Moldova is the Transnistrian conflict. I refer to this subject because I am convinced that major developments at domestic and regional levels begin to contribute substantially to a real settlement of the conflict. The Ukrainian plan for the settlement of the Transnistrian conflict is eloquent in this respect, as is the involvement of the European Union and the United States in the negotiations. For its part, the Parliament of the Republic of Moldova has adopted a declaration to support the Ukrainian initiative and two appeals on the demilitarisation and democratisation of the Transnistrian region. It also adopted the law on the main provisions of a special legal status for populated areas on the left bank of the Dniestr. In this context, after the democratisation and demilitarisation of the region, it is planned to hold free and democratic elections under the auspices of an international election commission in which the Council of Europe will play an active monitoring role. Moreover, I express the wish that this prestigious European forum will become more dynamically involved in the promotion of democratic principles in the region.

A special place in the parliamentary working agenda in my country has been given to collaboration with civil society. In this sense and in the spirit of the democratic experience of the Council of Europe and the European Union, the concept of collaboration between parliament and civil society is being finalised and it is proposed that it will be discussed by public opinion in the near future.

I express my conviction that the most important issue is not the amount of arrears, but the fact that the current national consensus in the parliament of my country is meant to be an instrument to overcome political crises and to ensure constructive political stability. That is a reliable and promising premise on which to fulfil all commitments before the Council of Europe. In this context, I express my gratitude for the support from which we have benefited up to now, hoping that assistance will be extended in the future. I note that the Moldovan legislature will come up with proposals in different areas in the near future.

A great thinker of the past said that there was nothing more difficult to execute nor more dubious of success or dangerous to administer, than the introduction of a new order of things. However, I assure you that by virtue of our presence in the European family and, in particular, our wish to bring prosperity to our people we will proceed without hesitation on the way of democratic reforms. In the context of this affirmation, I urge this high forum—the Parliamentary Assembly of the Council of Europe—to support my country by voting for the Monitoring Committee's draft resolution and draft recommendations. That will bring us closer to the desirable goal of passing to the next stage of co-operation with the Council of Europe – namely, that of post-monitoring.

Mr President, Mr Secretary General, ladies and gentleman, I thank you for your attention.

THE PRESIDENT. – Thank you for your speech, Mr Lupu. You can be assured that the Council of Europe will support you in every sense that we can. You can also count on the constructive and critical approach of the Council of Europe. We are pleased that you are on the right road in the reform process, and we wish you all the best in implementing all the legal and political reforms in your country.^f

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

THE PRESIDENT. – The next item of business this afternoon is the debate on the report on co-development policy as a positive measure to regulate migratory flows presented by Mr Salles on behalf of the Committee on Migration, Refugees and Population, Document 10654.

The list of speakers closed at 1 p.m. Twelve names are on the list and no amendments have been tabled.

I call Mr Salles. He has eight minutes.

Mr SALLES (*France*) said that Europe was facing a major challenge, as a result of there being 20 million migrants resident across the continent. It was important that the benefits of migration were considered when developing immigration policy and that there should be a sustainable solution to the problem. Migrants had contributed to European countries, providing skills, entrepreneurial activities and support for democratisation. The Assembly also acknowledged the valuable contribution migrants made to their country of origin and called on its states to recognise that migrated communities supported the development of human rights and democracy in the developing world. Some argued that the rich in the north should pay for the poor in the south. Such debates were unresolved and there was a need to invent new models to strengthen cooperation through economic partnership.

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

THE PRESIDENT (Translation). – Thank you, Mr Salles. I call Mrs Err, on behalf of the Socialist Group.

Mrs ERR (*Luxembourg*) said the report was thought-provoking. She was responsible for asylum issues in Luxembourg and was concerned about border policies and related human rights issues.

The Socialist Group did not believe that co-development was the solution. The rapporteur was vague, and missed many important nuances. The report referred to illegal immigrants, but it was necessary to take account of the problems of other migrants. Although co-development was a positive concept, the Council of Europe had to draw attention to the idea that co-development should not increase pressure on countries to increase immigration. The report was not up to the expectations of the group and she requested that it be referred back to the committee.

THE PRESIDENT (Translation). – Thank you, Mrs Err. I call Mr Mendes Bota, on behalf of the Group of the European People's Party.

Mr MENDES BOTA (*Portugal*) said that he was in agreement with the terms of the report, which would make the best use of migrants and host countries. Increased trade flows were more important than the flow of state aid. Extreme poverty lay at the roots of most problems such as trafficking and drugs. There was an absolute need to combat trafficking networks, especially from eastern Europe. Migratory flows to Europe were out of control; there was a need to start managing them so that co-development policies would operate properly. He argued that the biggest problem in migration policy was the hypocrisy of the biggest countries, which promised aid - for example, at Monterrey and through the millennium

development goals - but these were just fine words and very little had happened. Only five countries had met their promises; the worst offender was the United States.

THE PRESIDENT (Translation). – Thank you, Mr Mendes Bota. I call Mrs Oskina, on behalf of the European Democratic Group.

Mrs OSKINA (*Russian Federation*) said that migration issues were global in their effect. Many countries faced significant demographic problems, including a decrease in the number of people of working age and falling fertility rates, which went hand in hand with immigration problems such as a lack of assimilation into indigenous populations, which could lead to social conflict and even terrorism. Methods of controlling migration needed to be explored. It was necessary to resolve issues of economic, demographic, political, ethno-cultural and labour market planning. There was also a need to take into account migration caused by natural disasters and the degradation of the environment. International organisations, including the Council of Europe, had to play a role in drafting model laws on migration. She thanked the rapporteur for a sine report.

THE PRESIDENT (Translation). – Thank you, Mrs Oskina. I call Mr Platvoet to speak on behalf of the Group of the Unified European Left.

Mr PLATVOET (*Netherlands*). – I agree with the rapporteur, Mr Salles, that migration is an opportunity for co-development and co-operation between the former home country and the present home country of migrants. That can be a measure for regulating migratory flows – not because there is a threat to some western European countries, but because it is for the benefit of undeveloped countries to use the talents and skills of their own people.

The report makes some good proposals, but I want to make some critical remarks. I underline the critical remarks that Mrs Err made on behalf of the Socialist Group, and I want to make some more. The report speaks of “home countries” and “host countries”, but many migrants – certainly those who belong to the second and third generation – live in their home country, which once was the host country of their parents or grandparents. We cannot have a clear view of the immigration issue if we keep thinking and speaking in such terms as “host countries”.

That brings me to my next remark.

The emphasis on co-development and repatriation projects can conflict with a policy of integration, which is also necessary and profitable. Although a repatriation policy is not the hidden agenda of the report, the extreme right can use it as a tool to get rid of foreigners. However, such a policy cannot replace an integration policy, which shapes human living conditions for migrants in their home countries.

The successful integration of migrants in their new homeland can mean that less money is sent to their countries of origin, as investigations into Turkish immigrants in the Netherlands have shown us. As migrants become more integrated in their new homeland, there is less chance of a successful co-development policy based on the co-operation of migrants. That is understandable. When people choose to live in a new land, to raise their children there and to participate in society, they also choose to invest their skills, talent and money within those borders. They will have ties with their original countries, and perhaps they are willing to contribute in some way to the development of those countries, but they will not do that from the perspective of planning to return to the country of their parents. That is the contradiction between successful integration and the policy highlighted in the report.

Co-development can also be based on the involvement of local authorities or take place at a multilateral level. That is useful because there must be good governance and social policy in the so-called undeveloped countries as well as in the richer European countries, which have the historical and moral responsibility to make poverty history.

THE PRESIDENT (Translation). – Thank you, Mr Platvoet. I call Mr Mirzazada.

Mr MIRZAZADA (*Azerbaijan*) said that this was a complex and perennial problem which required extensive discussion by Assembly members. The Assembly had to look at all aspects of migration: some surprising issues might arise. He argued that the developed countries should bear the main burden of migration because they had the resources to cope. Development assistance should not take the form of handouts but had to produce concrete results. It should focus on helping the economies and infrastructures of developing countries. There was a need to regulate, not combat, migration. He noted

that even his own country, Azerbaijan, had an immigration problem. He argued that timely action would make problems associated with immigration much less pronounced.

THE PRESIDENT (Translation). – Thank you, Mr Mirzazada. Mr Kucheida and Mr Provera are not here, so I call Mr Gubert.

Mr GUBERT (*Italy*) said the industrial revolution had turned the social and economic balance of Europe on its head. Significant emigration to the United States had made it possible to strike a new balance based on both human need and well being. Recent changes and a trend towards liberalism were upsetting this balance. Many of the countries experiencing net emigration were being forced to come to terms with the industrialisation of their agricultural economies. The document before the Assembly had some disadvantages, but went beyond a simple ideal because it raised the problems caused by the departure of, often highly-skilled, migrants.

The resolution called for repatriation to be combined with assistance. This would be a significant improvement on the current situation, but it called for partnership between source and receiving countries. Much could be learned from Italy's relationships with Albania and Libya. Co-development could be improved if it also addressed the causes of migration. The human and social costs of immigration must not be swept under the carpet. Despite these shortcomings, he welcomed the report.

THE PRESIDENT (Translation). – Thank you Mr Gubert. Mrs Smirnova is not here, so I call Mr. Özal.

Mr ÖZAL (*Turkey*). – Mr President and dear colleagues, I should first like to thank the rapporteur for his valuable and comprehensive report on this complex issue. Step by step, migration has become a top priority not only in Europe, but across the world. Today, more than 185 million people – approximately 3% of the world's population – live outside their country of birth. Considering the sophisticated repercussions of migratory movements, this comparatively small percentage of the world's population is indeed of great importance.

An important characteristic of migration is that it creates increasingly diverse societies and necessitates comprehensive, multidimensional policies. Regardless of how well prepared to receive migrants any society may think itself, it must be much better prepared in the years ahead, because immigration levels will continue to increase.

Europe is historically an important destination for migratory flows. Statistics produced by the Organisation for Economic Co-operation and Development show that nearly 22 million foreigners are now living in EU member countries. This number represents 5.2% of the total EU population. Migratory movements within and towards Europe give rise to important challenges in respect of demography, social cohesion, human rights, security and economic development. Meanwhile, we should also not forget that all these challenging issues are closely interlinked.

Migration has the potential to make a significant contribution to development. However, co-ordination and co-operation between host and source countries is required in order to establish the most appropriate and effective policies, so that migration's positive impacts can be increased for all concerned. As the report rightly states, co-development policy emerged from the need to find appropriate ways and means for migrants to become active in the developing and strengthening of co-operation between countries of origin and host countries.

An important issue in terms of migration and development is remittances, which represent a major contribution to the development needs of countries of origin. Although I support the arguments outlined in the report, I draw the Assembly's attention to the fact that remittances are private funds that should not hinder foreign direct investment or other monetary commitments. In general, the effects of remittances on development vary, and closely depend on general migration policy.

Another vital point to consider in the successful development of home countries and host countries is that partnerships between countries of origin and countries of destination should be based on the principle of shared responsibility. Here, regional and international organisations have an important role to play. In terms of data and information sharing on migration and development matters, there is a vital need for partnerships between international organisations and governments. It is also important to have comprehensive and accurate data on, for example, remittance flows and diaspora participation in development-related activities. Such partnerships are essential in order to support governments' efforts to

develop and implement effective policies that strengthen the linkages between migration and development.

These issues are not new for Europe, but they are proving difficult. Although bilateral co-operation between countries of origin and countries of destination is essential, it is not enough. Given this issue's complexity, the Council of Europe is the best platform through which to formulate comprehensive policies on co-development and migration management in general. I hope that this report will serve that aim.

THE PRESIDENT (Translation). – Thank you. I see that Mr Kucheida has walked back in. I ask him whether he would like to take the floor.

Mr KUCHEIDA (*France*). congratulated the rapporteur, and said that European countries faced many problems. Stories about illegal immigrants dying on planes or being washed up on the shores of the Mediterranean were not unusual. Such people were seeking a better life. Solutions needed to be found to limit the number of migrants. Co-development was laudable and the results were promising. It turned on the idea that migrants should become actors of development to strengthen co-operation between host and home countries. He questioned whether migrated health workers, so vital to their home countries, had sufficient incentive to return home. Quotas on migration would lead to zero migration and create new inequalities. The causes of the increase in immigration needed to be further considered. Developed countries bought products from developing countries at low prices: this was reflected in the North-South divide. Developed countries should not abandon developing countries. Fair trade was necessary to allow developing countries to advance on their own terms.

THE PRESIDENT. – That concludes the list of speakers. Mr Salles, Rapporteur of the Committee on Migration, Refugees and Population, to reply. He has four minutes.

Mr SALLES (*France*) said in response to Mrs Err that the situation in Ceuta and Melilla was being monitored. He questioned why, if she said the report was unacceptable, amendments had not been tabled in committee and the committee had unanimously approved the report. In response to Mr Mendes Bota, he said that, while combating organised crime was important, the report could not cover every issue. Co-development was one of a number of measures which could be used. It was not perfect but the report was a first step. The Assembly must appeal for solidarity at state and grassroots level.

THE PRESIDENT (Translation). – Does the Chairperson of the committee wish to speak? He has two minutes.

Mr ÇAVUŞOĞLU (*Turkey*). – I thank the rapporteur for a good report and an excellent presentation. On behalf of the committee, I also thank all who have spoken for their comments and also for their criticisms.

No measures have yet been taken to stop migratory flows, as we all know, but we have begun to formulate core development policies and positive measures. We should continue to fight illegal migration activities including human trafficking; we should also continue to create those core development policies and programmes. The report makes a good start, but we should continue the process. Not just countries of origin and host countries but transit countries should be involved in those positive measures. Here, two committees – my Committee on Migration, Refugees and Population and the Committee on Economic Affairs and Development – should co-operate to produce new policies.

THE PRESIDENT (Translation). – The debate is closed.

Earlier, on behalf of the Socialist Group, Mrs Err proposed that the report be sent back to the Committee on Migration, Refugees and Population. Does she insist on that?

A procedural motion takes priority over a matter of substance. Someone must second the motion.

Mrs Err, would you like briefly to give reasons for your request?

Mrs ERR (*Luxembourg*) said that this would underline the importance of the issue and allow the committee to clarify the way in which co-development could be made beneficial

THE PRESIDENT (Translation). – Thank you. Does anyone other than the Chairperson or members of the Committee wish to speak against the motion?

Mrs OSKINA (*Russian Federation*) said that the work done so far was valuable, and the report was ripe for adoption

THE PRESIDENT. – Thank you. What is the opinion of the rapporteur?

Mr SALLES (*France*) said that the committee had examined the issue for over a year. It was unanimously in favour of the report and considered that its recommittal would be a waste of time

THE PRESIDENT (Translation). – The Assembly will now vote, without further debate, on the proposal to send the report back to the Committee. A simple majority is required.

The vote is open.

The motion is rejected.

We will now proceed to vote on the whole of the draft resolution contained in Document 10654.

The vote is open.

The draft resolution in Document 10654 is adopted.

We will now proceed to vote on the whole of the draft recommendation contained in Document 10654. A two-thirds majority is required.

The vote is open.

The draft recommendation in Document 10654 is adopted.

14. Enforced disappearances

THE PRESIDENT (Translation).– The final item of business this afternoon is the debate on the report on Enforced Disappearances presented by Mr Pourgourides on behalf of the Committee on Legal Affairs and Human Rights, Document 10679.

The list of speakers closed at 1 p.m. Ten names are on the list and three amendments have been tabled.

I call Mr Pourgourides, the rapporteur. He has eight minutes.

MR POURGOURIDES (*Cyprus*).– You have before you a draft resolution and recommendation on the fight against enforced disappearances. As you can see from my report, enforced disappearances are first and foremost a humanitarian problem, with terrible effects on the friends and the families of the disappeared persons.

As a Cypriot, coming from a small country that has suffered from the more than 2 000 cases of enforced disappearances that struck both the Greek and the Turkish communities between 1963 and 1967 and during, or as a result of, the Turkish invasion in 1974, I am most painfully aware of the long-lasting suffering caused by this practice. As a Cypriot, I also know that lasting reconciliation and peace depend on truth, just as wounds can heal only after they have been properly cleaned, and that the human suffering caused by enforced disappearances must never be allowed to be exploited for political purposes.

The Committee on Legal Affairs and Human Rights therefore took a risk when it held a hearing with international legal experts and with the relatives of disappeared persons in Limassol in Cyprus. The relatives testified at first hand of their suffering, but those of you who attended the event will agree that, alongside a brave lady from Chechnya, the relatives spoke of their personal suffering and that of their families in a dignified manner far from any political instrumentalisation and that the political representatives of both Cypriot communities, including my Turkish Cypriot friends present here today, approached the topic in a very constructive manner. I hope that the Turkish Government, which controls Turkish military forces in Cyprus, will at last demonstrate a constructive approach to this humanitarian issue and resolve it as far as the Greek Cypriots who went missing in 1974 are concerned. The same principles apply to everyone, and such a constructive approach, which is aimed at finding the most efficient manner of eradicating once and for all the humanitarian scourge of enforced disappearances, is adopted in the draft text before you.

Unfortunately, the international legal framework for the fight against enforced disappearances is still deficient. I became acutely aware of this deficiency last year, in the context of my investigation into the disappearance of four prominent members of the opposition and a journalist in Belarus. As you may recall, I succeeded in collecting strong and overwhelming evidence implicating senior representatives of the Belarusian state, including Mr Sivakov, the Minister of Sport and former Minister of the Interior, and Mr Sheyman, then prosecutor general and former head of the presidential security services. Let us not forget Colonel Pavlichenko of the special forces. However, despite the almost unanimous support of this Assembly and the help of the European Union and the United States, all that we could achieve was some public embarrassment for these people that culminated in Mr Sivakov being declared *persona non grata* at the Athens Olympics. But as long as President Lukashenko is in power, there is no hope that they will ever be held responsible for their crimes.

In my explanatory report, I have exposed the deficiencies of the existing legal framework. The most blatant deficiency is the absence of a binding international instrument providing for a generally recognised definition of enforced disappearance, laying down the precise extent of a state's obligations to prevent, to investigate and to punish such crimes and defining the status and rights of the victims, including the relatives of disappeared persons.

Given the proven inability – and in rare cases, like Belarus, even the unwillingness – of some states to provide effective protection from enforced disappearance, a well-defined international legal framework is of the utmost importance. The draft resolution and recommendation are part of a two-pronged strategy designed to improve the chance for such an international legal framework to see the light of day.

The first stage is for the Council of Europe and its member states to throw their full weight behind the efforts at the level of the United Nations to produce a binding normative instrument for the protection of all persons from enforced disappearances. The second stage will follow at the end of next year, when I will initiate another motion to assess the outcome of the UN process and to reflect on the advisability of the Council of Europe creating its own instrument.

The UN inter-sessional working group to elaborate such a draft instrument at long last agreed, a little more than a week ago, on a draft convention for adoption by the UN Commission on Human Rights at its next session in the spring of 2006. This draft convention is of course a compromise – a view shared by many of the non-governmental organisations with which I have been in contact – but as I see it, it is an acceptable compromise. It fills most of the lacunae that I have mentioned.

The draft resolution holds some ideas for further strengthening the text. We could ask, for example, for a simplification of the urgent intervention procedure for seeing in the UN draft, for the inclusion of an express prohibition for amnesties for perpetrators of enforced disappearances, and for the exclusion of military tribunals from hearing such cases. In addition – perhaps most importantly – we could ask for a clearer recognition of the ongoing nature of enforced disappearance, which should enable the future convention also to cover cases in which persons disappeared before the coming into force of the convention, and when their whereabouts are still not clarified.

In case the text is not re-opened in the process of adoption in the UN, European countries still have an excellent opportunity to set a good example by making interpretative declarations in ratifying the convention.

The amendments that I have tabled give some examples. Countries could waive the requirement of prior approval of a fact-finding mission under the urgent procedure foreseen in the draft; they could declare that they recognise the competence of the future Committee on Enforced Disappearance to receive and consider communications from or on behalf of individuals, subject to its jurisdiction, claiming to be victims, as foreseen in the draft convention; or they could make an interpretative declaration regarding the retrospective application of the convention, as the Italian delegation has already announced that it would do.

The adoption of the resolution, thanks to your support, will come at the perfect time. It will be an example for practical co-operation between different organisations working together for the advancement of human rights. The Council of Europe and its member countries are in an excellent position to help along the adoption of a good legal instrument in the framework of the United Nations that will benefit victims of enforced disappearances world-wide. In another year or two, we will assess the outcome of the UN process, and then decide whether the Council of Europe should go further and create its own mechanism to combat enforced disappearances.

THE PRESIDENT (Translation). – Thank you.

I call Mrs Papadimitriou, on behalf of the Group of the European People's Party.

Mrs PAPANIMITRIOU (*Greece*). – Once the resolution and recommendation are voted on today, it is to be hoped that as a second stage the United Nations Commission on Human Rights will adopt it. We will all take pride in the Council of Europe Assembly having offered global society a binding international instrument for the protection of all persons from enforced disappearance. We will have a wide and concrete recognition that disappearance is a severe multifaceted violation of basic and fundamental principles in the holiest context of human rights. It is confined not only to the rights of missing persons but to those of their families, those of their social nucleus, those of their nation and beyond to our culture, our morality and our humanity.

The footprints of all perpetrators of these crimes are similar but they are not easily detected. From one side, they take place in the dark; and from the other, until today, they are met with the inability or unwillingness of states, or even of the international community, to face them with the necessary political will.

From the distant Latin countries, such as Mexico, to our European neighbourhood – for example, Chechnya, Belarus and Cyprus – we look to the Council of Europe as we await action. There have been some good initiatives, including four or five resolutions of our Assembly and those of the UN, but we need stronger, more cohesive, more massive and more effective action, as was well suggested by Christos Pourgourides in his excellent report. We need a definition of the crime, safeguards against impunity, preventive measures and appropriate reparation.

Our rapporteur seeks to establish a new European state. For the past 30 years we have strived to address the humanitarian problem of missing persons in Cyprus. I remind the Assembly of the relevant judgment of the Court of Human Rights, the execution of which is still pending.

It is our duty to work towards the right decisions and to insist upon their full and unconditional implementation. Most of all, our goal is to build a new Europe and a new world where these issues will never require our intervention. Such action will never again be undertaken in that context. Until then, to use Christos Pourgourides' words, let us clean the wounds, and clean them well, before curing them, by monitoring the content of today's vote.

(Mr Pullicino Orlando, Vice-President of the Assembly, took the Chair in place of Mr Gardetto.)

THE PRESIDENT. – Thank you.

I call Mr Ertsborn, on behalf of the Alliance of Liberals and Democrats for Europe.

Mr ERTSBORN (*Sweden*). – I thank the rapporteur, Mr Christos Pourgourides, for his report on enforced disappearance. The report is extremely important and my group supports it.

At the hearing in Limassol, Cyprus, in May this year, Professor Manfred Nowak, of Vienna, talked about the similarities between disappearances in certain Latin-American countries in the 1970s and 1980s and the disappearances nowadays in Belarus. That reminded me of a 17-year-old Swedish girl, Dagmar Hagelin, who disappeared in January 1977 in Buenos Aires, Argentina.

She was captured by military persons and tortured and murdered, and her body was never found. Today, her father is still working on her case in the courts of Argentina. That case shows that it is never too late to find out what really happened, and never too late to find justice.

As for the situation in Belarus, we must make every effort that we can to support the people who are trying to stop the enforced disappearances that we know are taking place there. We must support those who try to investigate what is happening, and perhaps raise the question of an international court.

As the report says, it is first and foremost the responsibility of the states concerned to fight enforced disappearances – but that is not enough. We can all see that we need an international, legally binding, instrument for the protection of all people from enforced disappearances, and the report gives all member states of the Council of Europe full support for the adoption of such a binding international instrument.

Let me especially express my great satisfaction at what the report says about family members and their right to be informed of the fate of their relatives. Finally, I thank the rapporteur again for his excellent work, and lend my support and that of my group to the report, the draft resolution and the draft recommendation. We are convinced that everyone working for human rights will contribute to creating a successful international binding instrument to protect all people from enforced disappearance.

That concludes my first speech in this Assembly, Mr President.

THE PRESIDENT. – Thank you, Mr Ertsborn. I now call Mr Kvakkestad on behalf of the European Democratic Group.

Mr KVAKKESTAD (*Norway*). – I congratulate the rapporteur on a good report on an important topic. As that report makes us aware, the problem of enforced disappearances still exists on the European continent. In our efforts to combat that problem we must also take care of people who do not know where their family members or friends are. Those who are left with such uncertainty have a feeling of violation because they do not know where the disappeared person is.

People who have disappeared by force have, of course, had their human rights violated – but for such a person the biggest violation is not necessarily the fact that other people do not know where he is. He might not even know that they do not know. It is the direct fact of how he is treated – whether he is tortured or killed, for example – that is the major problem for him.

Of course, knowledge of someone's whereabouts can help to ensure that that person is treated according to the basic principles of human rights, and those who are left behind worry about not knowing, when there is no information about what has happened. I agree that it is of the utmost importance that members of the families of the disappeared should be recognised as independent victims – partly because enforced disappearances are a way of making people sacred. When people are taken away and no one knows what has happened to them, the message that is also sent is, "This could happen to you too."

The definition of enforced disappearances ought to include actions by semi and non-state actors, too. For the people involved it is rather irrelevant who has taken away their human rights or their loved ones, and there is no reason why paramilitary groups, organised criminals or others should be excluded from the definition so that what they do is treated as less of a crime.

We have to remember that not knowing the whereabouts and position of our loved ones is an exhausting and difficult situation, which we do not want anyone to experience. That is why the report, the resolution and the recommendation are so important. It is extremely important that the Council of Europe should send a clear message that this a problem that we cannot accept, and we will do our utmost to combat it.

THE PRESIDENT. – Thank you. I now call Mrs Kanelli to speak on behalf of the Group of the Unified European Left.

Mrs KANELLI (*Greece*). – Thank you Mr President. Dear colleagues, this is a very important issue, which opens, although we hope that it will not close, with today's draft. The rapporteur, Mr Pourgourides, has done a very good job – although permit me to say that the examples could be judged as unbalanced. Yes for Cyprus; yes for Chechnya – but do not enforced disappearances also take place in the so-called western civilised countries? Or are they covered up better there?

Enforced disappearance is a crime. No one would say no to that idea. It is a continuous torture both for the person who has disappeared and for their relatives. For the relatives, it is mostly shrouded in the fog of hope and expectation—hoping that the end has not come for their loved one.

In paragraph 10.1.1, Mr Pourgourides talks about paramilitary groups. That is okay with regard to organised criminal groups. Who would say no to including them? But what about rebel fighters? Have we not already experienced political evaluation of the idea of rebel fighting? What if somebody rebels against a neo-Nazi regime or a totalitarian regime? What about rebel fighters who make a revolution for freedom, not the "freedom" imposed by the Americans? If we want a general instrument – an idea that we strongly support – we need a clear definition, in a world in which the United Nations is being seriously changed, and nobody knows whether that change is for the better. We shall see, and we shall fight to ensure that it is for the better, but we must realise that in the United Nations, the Committee on Human Rights is being diminished and turned into a council of human rights, as the United States wanted. How can we enforce standards and encourage other states and countries to recognise certain things as crimes in their

legislation, when some countries have bilateral agreements with the United States to exclude the US from the jurisdiction of the International Criminal Court?

It is not that we do not like the report; we do like it, and we shall vote for it, but we need to be somewhat sceptical of the political implications, because, as almost everybody knows, enforced disappearance is a type of political crime, and its definition depends on who has carried it out, and how and when.

Sometimes the people who disappear are well-known personalities, such as politicians. They are easily recognised and a larger circle of people are interested in their disappearance, but what about the mothers and fathers of the Afghans who were kicked out of Afghanistan or of those Pakistanis who were treated in the same way? Foreigners have sold out democracy in the world and taken people from my country to put into Guantánamo Bay. Sometimes no one knows about such acts because those people are taken to bases in the 183 countries where the foreigners have a military presence.

We must keep all that in mind. The report is a good start. We must fight for its recommendations and show the way forward. We need an international instrument that can be implemented. That must be the case for Cyprus, Latin America and other countries. Let us not forget how European countries reacted to the extradition of Mr Pinochet.

THE PRESIDENT. – Thank you, Mrs Kanelli. I call Mr Bindig.

Mr BINDIG (*Germany*) said that disappearances were one of the worst human rights violations, comparable with torture and death. Often, victims were murdered and no-one knew anything about their fate. States which should protect human rights were in fact violating them, either directly or through other groups. It used to be thought that this was only a Latin American phenomenon, but it was now apparent that disappearances were happening in Europe, for example in Turkey. He himself had presented a report the previous year about human rights violations in Chechnya. There had been 415 disappearances in Chechnya in 2004 due to the climate of lawlessness there. Relatives of the disappeared were so intimidated they did not even inform the authorities or address the defenders of human rights; they were scared of becoming victims themselves. Those who brought cases could themselves be kidnapped.

He argued that this issue should be taken very seriously. He welcomed the fact that the United Nations had undertaken to prepare a convention against enforced disappearances. He hoped that a text would soon be available. States needed mechanisms to enable them to penalise the guilty. The Assembly should investigate individual cases and establish whether UN mechanisms, once approved, would be sufficiently strong.

THE PRESIDENT. – Thank you, Mr Bindig. I call Ms Hajiyeva.

Ms HAJIYEVA (*Azerbaijan*). – For many centuries, people have fought for power and glory, money and prosperity, religion and land. Mankind has come to the final and undeniable conclusion that there is only one unchangeable priority of any political agenda throughout the world – the priority of human beings. Neither national nor strategic interests can prevail when it comes to the inalienable interests of an individual.

The report presented by Mr Pourgourides draws our attention to a sensitive and urgent humanitarian need. It relates to the double tragedy of those who disappear and those who suffer because of a lack of information about their loved ones. I thank the rapporteur for his comprehensive and high-quality work, and in particular for looking for a legally binding and workable mechanism that protects both those people who are subjected to enforced disappearance and their relatives. The provisions that recognise family members as independent victims and grant them the right to discover the truth are important because they must be able to get information about their relatives. The recognition of enforced disappearances as a crime is also important, as is an appropriate punishment in the domestic criminal courts.

At the hearing in Limassol, I told the committee about 5 000 missing people in Azerbaijan and expressed my regret about the international community's lack of appropriate attention to what is an acute problem. The Armenian-Azerbaijani conflict started in 1988. It led to the occupation of 20% of the territory of Azerbaijan and the disappearance of thousands of people who live in those occupied territories. According to the information provided by Azerbaijani officials, which was updated on 16 June 2005, the number of registered missing citizens is 4 808. It includes 54 children, 320 women and 408 elderly people.

Hundreds of people, including women, children and the elderly, suffered unbearable torture in Armenian captivity. They were severely beaten, intentionally crippled and branded on the chest. They had their nails and teeth removed, their wounds filled with salt and benzene injected into their veins.

I was surprised to be told that the Bureau sent my motion dedicated to this sensitive humanitarian issue to the Committee on Legal Affairs and Human Rights for information only. I disagree with the Bureau's decision and fully agree with Mr Pourgourides. His explanatory memorandum points out that the plight of missing people and their relatives in Azerbaijan needs urgent international attention. Because this is the destiny of thousands of people—and given that this issue is one of the Council of Europe's priorities—I deeply hope that at the first opportunity, the Bureau will be more careful in its approach to the humanitarian tragedy affecting 5 000 of my compatriots.

Thank you very much for your attention.

THE PRESIDENT. ξ Thank you. I call Mr Nami.

Mr NAMI (*representative of the Turkish Cypriot community*). – Cyprus lived through the trauma of enforced disappearances for 10 years; indeed, the trauma is still going on. In the work of our rapporteur, Mr Pourgourides – a fellow Cypriot – I see, and fully share, a determination to prevent such devastation from ever happening again in our homeland, or anywhere in the world. I welcome his reference to the Turkish-Cypriot people who went missing during the attacks of the Greek-Cypriot militia in 1963-64, three years after the establishing of a joint republic with their Greek-Cypriot counterparts. Their fate remains unknown.

In Cyprus – after years of work by the committee dealing with missing persons, which is a bicomunal committee chaired by the United Nations – we have started to see progress in the past year. Remains are being found, and Turkish-Cypriot authorities have established a genetic laboratory to work in conjunction with a bicomunal laboratory that is supported by the UN, whose tireless efforts we must all commend.

We, as Turkish Cypriots, are ready and willing to contribute to all efforts to make enforced disappearances a thing of the past. Adapting the resolution before us today will help efforts to achieve that goal by sending a clear signal from Europe to the United Nations that we want a global, legally binding, framework to deal with this crime. However, implementation of legislation is just as important as adopting it, if not more so, so our mission should be supported by our work in our home countries.

I again congratulate the rapporteur and his team on their excellent work.

THE PRESIDENT. – Thank you. I call Mrs Pericleous Papadopoulos.

Mrs PERICLEOUS PAPADOPOULOS (*Cyprus*). – Enforced disappearances are undoubtedly severe violations of international law and human rights. They violate the personal rights of the missing, as well as those of their families. Such breaches of international law justify the most severe international sanctions. Unfortunately, the international community has not done enough, even in the heart of Europe.

As the rapporteur points out in his well-documented report, the current international legal system is insufficient to combat the problem effectively. A relevant United Nations convention is needed—along, perhaps, with an additional protocol to the European Convention on Human Rights.

Of course, the main responsibility for confronting the problem lies with the states concerned. However, not all states are willing to co-operate. Some are unwilling to provide effective protection against such disappearances; others refuse to co-operate with investigations, or they deny the disclosure of information to the relatives of the missing. Cyprus, my divided country, has suffered from both these problems. I remind the Assembly that, since the 1974 Turkish invasion and occupation of 37% of the territory of Cyprus, one third of the Greek-Cypriot population – including me – remain refugees. They are denied their right to return to their homes and properties.

Cyprus has lodged four applications against Turkey before the European Court of Human Rights, complaining about indiscriminate killings, inhuman treatment, denial of the rights of refugees and missing persons, ethnic cleansing and other severe violations of the Convention.

In human terms, the missing persons issue and the persisting drama in which their families are involved are by far the worst consequences of the 1974 Turkish invasion. More than 1 500 of the thousands of people arrested and detained by the Turkish army disappeared. Their fate still remains unknown.

Despite all the efforts of the Government of Cyprus—and despite pertinent UN resolutions and the ECHR's judgment in the Cyprus versus Turkey case of 2001—Turkey still fails to provide convincing answers. The Court's judgment clearly states that "Turkey has failed to undertake any investigation into the circumstances surrounding the disappearance of the missing persons of Summer 1974, and condemned their families to live in a prolonged state of acute anxiety, not erased by the passage of time". Repeated promises by the Turkish-Cypriot pseudo-state – Turkey's subordinate Administration in Cyprus – that exhumations would be conducted in the occupied part of Cyprus, where several Greek-Cypriot mass graves are located, have not yet been honoured.

The drama of the missing persons of Cyprus is already 32 years old. The agony of the relatives is unbearable. Turkey's refusal to co-operate is not only inhuman but contrary to the ECHR's judgment. The missing persons issue is a humanitarian one of the highest priority. Legal gaps, or the lack of efficient implementation mechanisms, should not offer an alibi to enable any state to avoid its obligations. We must work together to set up an effective investigation system, to deal with enforced disappearances, and to punish those responsible and compensate the victims and their families. We must ensure that all states responsible, including Turkey, give concrete answers about, and provide verifiable evidence on, the fate of missing persons worldwide. The relatives have the right to the truth – to know whether their missing are dead or alive. They deserve actions and effective monitoring mechanisms, not just resolutions and promises that cannot be implemented in practice.

All this has to be done urgently, and such matters go beyond questions of political expediency. Let us not forget that the lives of people—irrespective of colour, ethnicity or sex—are invaluable. As such, they should be protected and treated with respect.

I congratulate Mr Pourgourides on his well-documented report on this crucial humanitarian issue.

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

Mr CEBECI (*Turkey*). – I thank Mr Pourgourides for his comprehensive work, which reaffirms the importance of eradicating enforced disappearances, and the need for an international legal instrument for that purpose.

Enforced disappearances is a humanitarian issue and it should not be abused for political purposes. In Cyprus, a process is already under way, and although it is slow, it is producing results. That process is probably not to the satisfaction of both sides, but at least it is intact and is working.

The initiative undertaken by the United Nations intercessional open-ended working group in the creation of a legally binding instrument for the protection of all persons from enforced disappearance is most welcome. I am confident that the recommendations of the Council of Europe will be taken into account by the competent UN institutions when they finalise the draft convention. I believe that 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, will be further elaborated and put into a binding form in the light of the Council of Europe's assessments.

A clear definition of enforced disappearances that is wide enough to cover non-state actors; the recognition of close relatives as victims and the granting to them of a right to the truth; the adoption of appropriate safeguards against impunity; effective preventive measures as guarantees for non-repetition; a well-defined right to reparation; and, last but not least, a strong international monitoring mechanism – including an urgent intervention procedure – are the essential elements of concrete remedial action, as our colleague Mr Pourgourides said in his report.

It is impossible to underestimate the contribution of the decisions of the European Court of Human Rights to the development of legal rules in this sphere, but adoption of a binding international instrument is necessary to fill the gap in the legal framework. Inability to conduct full and proper investigations, the absence of appropriate national criminal provisions and, if such provisions exist, a lack of or an incomplete enforcement of them to protect perpetrators are generally the main obstacles facing victims who try to seek truth and justice. A legally binding normative instrument is therefore greatly needed.

An effective remedy is possible only if the truth is established. Disclosure of all relevant facts, the punishment of perpetrators and an apology by the responsible authorities to the victims of this crime could, to an extent, alleviate the gravity of the psychological harm, if not eradicate completely the devastating effect of what has taken place.

THE PRESIDENT. – That concludes the list of speakers.

I call Mr Pourgourides, the rapporteur, to reply. He has four minutes.

Mr POURGOURIDES (*Cyprus*). – I warmly thank all members for their support, but special and warmest thanks go to Rudolph Bindig from Germany. I really appreciate his support for many reasons, but I shall mention only two. He has been a champion of human rights in the Assembly for many years, and has been one of the main pillars of Committee on Legal Affairs and Human Rights. His decision not to seek re-election in the recent German elections means that soon he will not be with us. It will be very hard for someone else to stand in his shoes successfully.

I support Ms Hajiyeva's call for proper investigation of the problem of missing persons in Azerbaijan, and I agree with my good friend Mr Jan Ertsborn that it is never too late to discover the truth. I remind you that in the United States, proceedings were recently initiated to clear the name of someone who had been regarded as a traitor for the past 200 years. Those proceedings were successful. I also agree with my friend Mr André Kvakkestad that this is a problem that we cannot accept and must do everything possible to eradicate.

Finally, let me say something to Mrs Liana Kanelli from Greece about enforced disappearances in the so-called advanced democracies. It is true that many persons, including young children, go missing every year and remain unaccounted for in all countries, including the most so-called advanced democracies. Although those cases are equally tragic and disturbing, at least they are fully and properly investigated by the authorities. That is the distinction that can be drawn between them and the cases covered by mandate, which the authorities either fail or are unwilling to investigate properly. I do not think that the United Nations convention currently being drafted would include in its definition the enforced disappearances of which Mrs Liana Kanelli spoke.

I entirely agree with Mr Cebeci that this is a humanitarian issue. We must all try to avoid political exploitation at all costs: any attempt to exploit the issue politically would kill it, and prevent us from discovering the truth.

Let me again thank all members for their support, and thank Mrs Elsa Papadimitriou for her fine speech and fine propositions.

THE PRESIDENT. – Thank you.

As the Chairperson of the committee, Mr Holovaty, is not present, I call Mrs Bemelmans-Videc. She has two minutes.

Mrs BEMELMANS-VIDEC (*Netherlands*). – The committee was unanimously in favour of the report. It expressed deep gratitude for the rapporteur's endeavours to highlight an important issue, and the convincing way in which he tabled the recommendations and resolutions that are before us.

THE PRESIDENT. – The debate is closed.

The Committee on Legal Affairs and Human Rights has presented a draft resolution to which three amendments have been tabled, and a draft recommendation to which no amendments have been tabled. The amendments will be taken in the following order: 1, 2, 3. I remind the Assembly that speeches on amendments are limited to one minute.

We come to Amendment 1, tabled by Mr Christos Pourgourides, Mrs Elsa Papadimitriou, Mr Michael Spindelegger, Mr Murat Mercan, Mr Zsolt Németh and Mr Márton Braun, which is, in the draft resolution, paragraph 9, replace the words "at its 4th session in January/February 2005 and urges it to agree on a" with the following words: "at its 5th session in September 2005 leading it to the adoption, on 22 September 2005, of a".

I call Mr Pourgourides to support the amendment. He has one minute.

CONTENTS

1. Resumption of the 2005 Ordinary Session
2. Voting cards and the register of attendance
3. Opening remarks of the President
4. Examination of credentials
5. Election of a Vice-President of the Assembly in respect of Moldova
6. Changes in the membership of committees (Doc. Commissions (2005)8)
7. Written Declaration
8. Requests for debates under urgent procedure
9. Adoption of the order of business for the fourth part of the 2005 Ordinary Session
10. Adoption of the minutes of the meeting of the Standing Committee (1 September 2005, Monaco) (AS/Per (2005)PV3)
11. Progress Report of the Bureau and the Standing Committee
Presentation by Mr Kosachev of the Progress Report, Doc. 10687

Speakers

Mr Van den Brande (Belgium)
Mr Eörsi (Hungary)
Mr Margelov (Russian Federation)
Mr Pourgourides (Cyprus)

Progress report approved

12. Statement by Mr Lupu, Speaker of the Parliament of Moldova
13. Co-development policy as a positive measure to regulate migratory flows
Presentation by Mr Salles of the Report of the Committee on Migration; Refugees and Population (Doc. 10654)

Speakers:

Mrs Err (Luxembourg)
Mr Mendes Bota (Portugal)
Mrs Oskina (Russian Federation)
Mr Platvoet (Netherlands)
Mr Mirzazada (Azerbaijan)
Mr Gubert (Italy)
Mr Özal (Turkey)
Mr Kucheida (France)
Mr Çavuşoğlu (Turkey)

*Draft resolution adopted**Draft recommendation adopted*

14. Enforced disappearances

Presentation by Mr Pourgourides on behalf of the Committee on Legal Affairs and Human Rights (Doc. 10679)

Speakers:

Mrs Papadimitriou (Greece)

Mr Ertsborn (Sweden)

Mr Kvakkestad (Norway)

Mrs Kanelli (Greece)

Mr Bindig (Germany)

Ms Hajiyeva (Azerbaijan)

Mr Nami (representative of the Turkish Cypriot community)

Mrs Pericleous Papadopoulos (Cyprus)

Mr Cebeci (Turkey)

Amendments Nos. 1, 2 and 3 agreed to.

Draft recommendation, as amended, adopted

Draft resolution adopted

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

