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SUPPLEMENTARY ITEM

DRAFT RESOLUTION

ON

**“WITNESS PROTECTION PROGRAMMES – A CHALLENGE TO
JUSTICE AND RECONCILIATION”**

**Principal Sponsor
Mr. Jean-Charles Gardetto
Monaco**

BELGRADE, 6 JULY TO 10 JULY 2011

DRAFT RESOLUTION

Witness Protection Programmes – a Challenge to Justice and Reconciliation

Principal Sponsor: Mr. Jean-Charles Gardetto (Monaco)

1. Considering the United Nations Convention against organized transnational crime (UN General Assembly resolution No. 55/25, appendix I), which came into effect on 29 September 2003, and the protocols relating thereto (resolution 55/255, appendix; resolution 55/25, appendix III; resolution 55/25, appendix II) as well as the United Nations Convention against corruption (UN General Assembly resolution No. 58/4, appendix I), effective as of 29 September 2003, which call on all member states to take appropriate steps to prevent intimidation, constraint, corruption or physical aggression against witnesses and to strengthen international cooperation in this domain,
2. Considering the provisions concerning the protection of witnesses in the Statute of Rome of the International Criminal Court,
3. Considering the provisions concerning the protection of witnesses contained in the Rules of Procedure and Evidence of the International Criminal Court for the former Yugoslavia,
4. Considering recommendation 1952 (2011) of the Parliamentary Assembly of the Council of Europe concerning “Protection of Witnesses: The Cornerstone of Justice and of Reconciliation in the Balkans” dated 26 January 2011,
5. Considering the involvement and the commitment of the OSCE countries in favor of the struggle against organized transnational crime,
6. Considering the decisive role played by witnesses in the work of the justice system for discovery of the truth and the struggle against impunity, by means of the help with which they can supply the police and the courts, particularly in matters bearing on war crimes and the struggle against organized crime, as well as the vital necessity resulting therefrom to protect them against the intimidation, threats and violence to which they might be subjected to dissuade them from testifying or to punish them for their testimony, often considered as betrayal “treason”, and in order to provide them with help and assistance so that they can give evidence in the best possible conditions,
7. In the light of the specific difficulties encountered by witnesses known as “from the interior”, in other words, coming from criminal groups or serving with the armed offices or the police,
8. Considering the fact that in certain cases, systematic disclosure of the identity of witnesses in defense of the accused may run counter to the interest of justice, particularly if such disclosure exposes the witnesses and those around them to risks,
9. Considering the fact, finally, that in the absence of appropriate protection and assistance to enable a witness to testify, neither the work of justice nor the process of reconciliation of the populations affected by war crimes can be expected to be lasting,

The OSCE Parliamentary Assembly:

10. Calls for the judicial authorities and the prosecutors of the OSCE member states to carry out effective investigations of the allegations of threats, harassment or aggression against witnesses or those close to them, and to quickly sanction the authors thereof;
11. Calls on the OSCE member states to include, in national legislation, programmes for the protection of witnesses before, during and after trials, or to upgrade the existing programs;
12. Calls on the OSCE member states to implement measures aimed at guaranteeing that judges, prosecutors, policemen and other officials in contact with persons called on to testify receive complete training in witness protection;
13. Calls on the OSCE member states to implement, in national legislation, or to strengthen measures for assistance for witnesses before, during and after trial, in parallel to the means deployed for their physical protection, so as to guarantee successful prosecution of the authors of offences and to avoid secondary victimization of witnesses, by offering them logistical aid in particular, including to meet the need for finding new housing, legal counsel, medical care, appropriate psychological and social assistance as well as financial aid;
14. Calls on the competent national authorities to apply special measures if circumstances so require, particularly by restricting the disclosure of information concerning witnesses, removal of the identifying information concerning a witness from public documents, use of pseudonyms, closed door testimony and partial or complete anonymous testimony, with due observance of the case law of the European Court for Human Rights, as well as – if need be – a change of identity and resettlement of a witness in another place, including abroad;
15. Calls on the competent national authorities to extend, if need be, possible measures for protection and assistance from which a witness might benefit to include all or part of those around him;
16. Calls on the competent national authorities to use all possible technical means to upgrade witness protection, such as videoconferencing and image or voice distortion, to avoid disclosing a witness' identity to the defendant and to the public, in matters relating to war crimes, but also in those concerning organized crime, in accordance with the provisions of the United Nations Convention against organized transnational crime;
17. Calls on the competent national authorities to adjust the configuration of the higher and lower courts in such a way that protected witnesses can use a separate entrance and can avoid finding themselves in the defendant's presence;
18. Calls on the OSCE member states to create autonomous entities, separate from police forces and investigatory bodies, reporting to the Ministry of Justice so as to supervise the programs for witness protection and assistance as well as recruitment of the staff needed to guarantee proper operation thereof, and to assign the appropriate financial resources thereto;
19. Calls on the OSCE member states to conclude agreements with the other states and with the international courts with a view to organizing and facilitating handling and reinstallation on their territory of witnesses protected in another state or by such a court;

20. Calls on the member states to implement appropriate, stable and lasting financing for the programs for witness protection and assistance;
21. Calls on the member states to promulgate laws authorizing financing of such programs from the proceeds of property seized or confiscated because of its criminal origin, so as to make appropriate training for staff possible and to pay part of the ordinary expenditures connected with witness resettlement;
22. Calls on the competent national authorities to establish, within the framework of the witness assistance programs, partnerships with the non-governmental organizations having recognized experience vis-à-vis vulnerable populations called on to testify, particularly young people and children;
23. Calls on the OSCE and the other international organizations to strengthen their cooperation in order to optimize the financing, expertise and training programs for witness protection and assistance in all vulnerable regions;
24. Calls on the international courts to install residual mechanisms to guarantee the continuation and management of the witness protection and assistance programs benefiting therefrom after such courts have ceased to operate.

PROPOSED AMENDMENT to the DRAFT RESOLUTION

on

“WITNESS PROTECTION PROGRAMMES – A CHALLENGE TO JUSTICE AND RECONCILIATION”

[Set out text of Amendment here:]

Principal Sponsor:

Mr/Mrs	Family Name in Capital Letters	Country	Signature

Co-sponsored by:

Mr/Mrs	Family Name in Capital Letters	Country	Signature