Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**Doc. 11522**
31 January 2008

# The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans

**Motion for a resolution**[1]
tabled by Mr John AUSTIN and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

As pointed out by the Parliamentary Assembly in its Resolution 1564 (2007) on the prosecution of offences falling within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY), "justice is an indispensable ingredient in the process of reconciliation for the victims, communities and countries concerned and that it is essential to resolutely fight impunity".

The Assembly is aware that without the testimony of witnesses the ICTY would not have been able to give justice to thousands of people by sentencing some of the worst war criminals of the Milošević era. Nor would national courts be able to carry on this fundamental work of justice, which is necessary to pave the way for full reconciliation in the region.

The Assembly is therefore very concerned to note that, due to numerous threats, potential witnesses finally decide not to testify before the national courts of the countries concerned because they fear for their lives or those of their families. Improving the protection of witnesses at national level and co-ordination at regional level are crucial elements for the success of the work of justice and the authority of the law.

Furthermore, as already stated in Resolution 1564 (2007), the Assembly is convinced that, "considering the ICTY's long-term (and moral) commitment towards its own witnesses, a residual mechanism, with a view to continuing to maintain witness protection after its mandate ends, should also be established".

One should bear in mind that there is a certain urgency in this respect since testimonies– and with them a part of the truth – are lost forever when witnesses are no longer alive. Witnesses who stand up for truth and justice are owed reliable and durable protection.

The Assembly therefore resolves to study carefully the question of the protection of witnesses related to war crimes in the former Yugoslavia – both at national and at international level – and to take due account of the conclusions drawn in Mr Lloyd's report on the prosecution of offences falling within the jurisdiction of the ICTY (Doc. 11281) in this task.

*Signed (see overleaf)*

1. Referred to the Committee on Legal Affairs and Human Rights, for report: Reference No. 3431 (see 11th Sitting, 14 April 2008).

*Signed*[2]*:*

AUSTIN John, United Kingdom
BATET Meritxell, Spain, SOC
BEMELMANS-VIDEC Marie-Louise, Netherlands, EPP/CD
BERÉNYI József, Slovak Republic
CILEVIČS Boriss, Latvia, SOC
COSTELLO Joseph, Ireland, SOC
FEDOROV Valeriy, Russian Federation, EDG
GARDETTO Jean-Charles, Monaco, EPP/CD
MARTY Dick, Switzerland, ALDE
POURGOURIDES Christos, Cyprus, EPP/CD
PRESCOTT John, United Kingdom, SOC
SASI Kimmo, Finland, EPP/CD
SHARANDIN Yuri, Russian Federation
WEEKERS Frans, Netherlands

2. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group