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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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International Convention for the Protection of all Persons from Enforced Disappearances

Motion for a recommendation
tabled by Mr Jean-Charles GARDETTO and other members of the Assembly

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

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Deeply worried that enforced disappearances remain a continued practice in many parts of the world.

Gravely concerned that enforced disappearances still take place even on the territory of member States of the Council of Europe.

Referring to its own Resolution 1371 (2004) and Recommendation 1657 (2004) on disappeared persons in Belarus and Resolution 1463 (2005) on Enforced Disappearances in general, and the results of the hearing of the Sub-Committee on Human Rights on enforced disappearances in Limassol (Cyprus) in November 2008.

Also referring to its own Resolution 1507 (2006) on the "secret detentions and unlawful inter-state transfers of detainees" with the collaboration or tolerance of countries including several Council of Europe member States.

Alarmed by the thousands of cases of enforced disappearances of the past that remain unresolved and that only very few perpetrators have been brought to justice.

Acknowledging the gravity of the crime of enforced disappearances, and the severe suffering it causes to relatives of the disappeared as well as to communities at large.

Recognising the existing gaps and limitations in national legal systems of the Council of Europe member States to guarantee effective prevention, investigation and sanctioning of enforced disappearances as well as full and effective reparation.

Taking into account the standards set in the 1992 UN Declaration on the protection of all Persons from Enforced Disappearances and in the Inter-American Convention on Forced Disappearances of persons of 1994.

Welcoming the adoption of the International Convention for the Protection of all Persons from Enforced Disappearances (the Convention) by the UN General Assembly on December 20, 2006.

Also welcoming the codification for the first time in a legally binding human rights instrument of the right not to be subjected to enforced disappearance and the right of families to the truth about the fate or whereabouts of the disappeared.

Acknowledging the great importance of this new Convention and the opportunities it offers to genuinely increase the level of protection from enforced disappearances.

Saluting the signature of the Convention by 34 member states of the Council of Europe by January 2009.

Expresses concern that by January 2009 only two member states of the Council of Europe have ratified the Convention, and that the threshold of 20 ratifications for entry into force of the Convention has not yet been reached.

Calls on the member States of the Council of Europe to:

– sign and ratify the Convention without delay;

– refrain from reservations contrary to the purpose and object of the Convention;

– recognise the competence of the committee on enforced disappearances to receive and consider communications on behalf of individuals;

– adapt their legal systems, in particular the criminalisation of enforced disappearances in the penal code;

– promote the convention towards all countries within the framework of the Council of Europe, the United Nations and other relevant international bodies.

Decides to monitor regularly the progress with the Council of Europe member States of the protection from enforced disappearances.

Signals that an enforced disappearance as defined in the Convention is not recognised as a separate human rights violation in the European Convention on Human Rights.

Invites the Committee of Ministers and the competent bodies of the Council of Europe to explore whether the codification of enforced disappearances as a separate human rights violation may contribute to improved protection within the system of the Council of Europe.

Signed (see overleaf)

Signed[1]*:*

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1. ALDE: Alliance of Liberals and Democrats for Europe
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