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The future of the Council of Europe in the light of its 60 years of experience

Report¹

Committee on Political Affairs and Democracy

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Summary

The 60th anniversary of the Council of Europe is not only an occasion to celebrate its achievements in promoting and protecting democracy, human rights and the rule of law in Europe, but also an opportunity to analyse the position of our Organisation in the European institutional system, its strength and potential, as well as its flaws, weaknesses and limitations.

The purpose of the report is to provide some food for thought on the evolving role of the Council of Europe, to identify problems in its functioning, and to suggest measures to be taken in order to ensure that the Organisation remains a key institution in the process of building a united Europe based on the principles and values of democracy, human rights and the rule of law, and continues to guarantee the effective promotion and protection of these principles and values.

1. Reference to Committee: Reference No. 3578 of 28 May 2009.



Contents	Page
A. Draft resolution	3
B. Draft recommendation	7
C. Explanatory memorandum, by Mr Jean-Claude Mignon, rapporteur	9
1. Introduction	9
2. Analysis of the Council of Europe's activities and its place in Europe	9
2.1. Principal achievements of the Council of Europe	9
2.2. Weaknesses and limitations	10
3. Reinforcing the effectiveness and action of the Council of Europe	12
3.1. The commitment of the Organisation's member states	12
3.2. The internal democratic functioning of the Council of Europe	13
3.3. The role of the Parliamentary Assembly	14
3.4. The Court – how to break the deadlock?	16
3.5. Enhancing the Council of Europe's relevance for the member states and for all Europeans	16
4. Where does the Council of Europe's future lie?	16
4.1. Relevance	16
4.2. New challenges	17
5. Conclusion	19
Appendix – Conference on: What future for human rights and democracy in Europe? The role of the Council of Europe	20

A. Draft resolution

1. Sixty years ago, the founding states gave the Council of Europe the task of achieving a greater unity between its members for the purpose of safeguarding and realising the ideals and principles of personal freedom, political freedom and the rule of law, which are their common heritage and on which all true democracy is founded.
2. In present-day Europe, democracy, human rights and the rule of law form an integral part of European citizens' everyday lives. Our Organisation's contribution to ensuring that this is so has been decisive. The Council of Europe remains the main guarantor of the preservation of those values. It is to the Council of Europe, in particular to the European Court of Human Rights, that Europeans turn at last resort when they consider that their rights have been violated.
3. If the Council of Europe is to remain the key institution for the effective promotion and protection of fundamental principles and values for the benefit of all Europeans, its relevance, its functioning and its efficiency must be constantly improved. A critical and frank analysis not only of the Organisation's strategic goals, its strengths and its potential, but also its deficiencies, weaknesses and limitations, is essential for this.
4. In sixty years, the global and European geopolitical situation has undergone far-reaching changes. The end of the cold war and the collapse of the former communist regimes allowed the peaceful reunification of Europe on the basis of the ideals and principles championed by the Council of Europe. It was only natural that our Organisation should have been the first to admit the states of central and eastern Europe which had undertaken to respect those values and to give them the benefit of its experience.
5. Today, with 47 member states, the Council of Europe is the pan-European organisation with the widest membership. Its role is threefold: a framework institution for defending and promoting pluralist democracy, human rights and the rule of law; a framework for standard-setting activities and a European legal area; a think-tank and a wide and inclusive forum for political dialogue and co-operation. The Council of Europe's *acquis* in this field is unique and represents an essential contribution to the Europe of today. It must be carefully preserved and strengthened.
6. In sixty years, Europe's institutional landscape has changed profoundly. As a pioneer of European unity – which is its statutory aim – the Council of Europe has specialised in the defence of fundamental values and has shared its role in European integration with other organisations. A growing number of Council of Europe member states have decided to engage in closer and more advanced co-operation in other forums, especially the European Union.
7. However, the political goal of European unity transcends the boundaries of the European Union. In many fields, European co-operation cannot be effective unless it encompasses the continent as a whole.
8. The Statute of the Council of Europe, its legal instruments, its experience and its expertise make it an appropriate framework for developing pan-European co-operation on an equal footing. It is therefore vital for the future of the Council of Europe that its role as a pan-European political organisation should be re-affirmed and revitalised and that it should continue to offer those European states which do not join the European Union the opportunity to participate in the building of a united Europe.
9. At the same time, it is necessary to achieve increased complementarity between the work of the Council of Europe and that of the European Union and the Organization for Security and Co-operation in Europe (OSCE) based on their respective competences and fields of excellence, as well as on the co-operation agreements (Memorandum of Understanding) signed with those organisations. In this connection, the Assembly considers that a more far-reaching partnership with the OSCE would be desirable in view of that organisation's competences in the field of security.
10. One of the Council of Europe's comparative advantages is its traditional function as a "think-tank", its strength in tackling the problems of society in the medium and long term and working to develop standards and policies. Combined with the Organisation's role in monitoring the implementation of standards and the honouring of commitments, this quality has been a guarantee of the Council of Europe's relevance for the member states.
11. If this is to continue to be the case, the Council of Europe must remain firm in the defence of fundamental values while being open to dialogue and ready to offer its assistance. It must remain watchful of the changes in European society without trying to avoid controversial issues. It must assess their impact on key values and propose appropriate responses. It must ensure that its work is effectively implemented and followed up. Above all, it must strengthen its channels of communication with the different levels of European society.

12. The unquestionable results achieved by the Council of Europe should not conceal the fact that it has come up against some problems and difficulties, nor preclude analysis thereof. In this connection, the Assembly is concerned about certain trends which might indicate a decline of commitment on the part of the member states to the Council of Europe: the weak level of participation of the Ministers for Foreign Affairs in the ministerial sessions of the Committee of Ministers; zero growth in real terms in the Organisation's ordinary budget; a reluctance among the member states to sign and ratify the Council of Europe's legal instruments; and attempts to minimise or even question the importance of the different independent monitoring mechanisms. These trends must be reversed, so that the commitment of states to the cause of the Council of Europe is confirmed in tangible acts.

13. The Assembly is also concerned about a dangerous trend in the activities of the Council of Europe, including its own activities, to favour an approach through the prism of political expediency to issues which fall within the sphere of fundamental principles and values, to the detriment of those principles and values. This trend is particularly harmful to the credibility of an Organisation which is supposed to embody Europe's democratic conscience.

14. The Assembly believes that the regular holding of Summits of Heads of State and Government of the Council of Europe makes it possible to give the necessary impetus to the Organisation and maintain a high degree of responsibility on the part of states as regards their commitments towards it.

15. In the budgetary field, the Assembly refers to its [Opinion 272 \(2009\)](#) on the *budgets of the Council of Europe for the financial year 2010*. The member states' declarations in support of the Council of Europe must be translated into real and increased support for its work in the form of budgetary decisions that enable the Organisation to fully discharge its statutory responsibilities.

16. The Assembly also considers it necessary to draw attention to the fact that, increasingly often, the European Union member states support en bloc in the Committee of Ministers positions worked out among themselves and presented by the presidency of the Union. This situation in fact officialises a new dividing line within the Council of Europe itself and is harmful to its unity and its future.

17. The Assembly is in favour of enhancing the role of the conferences of specialised ministers of the Council of Europe and their impact on the Organisation's everyday activities. It believes that consideration should be given to arrangements enabling the different specialised ministries in the member states to be involved in the choice of priorities for intergovernmental activities and contribute to the funding of certain Council of Europe activities.

18. Furthermore, the Assembly considers that the Council of Europe's internal functioning, particularly as regards relations between its statutory organs, should be brought more fully into line with the democratic principles and values it defends. It regrets, that up until now, the proposals it made in [Recommendation 1763 \(2006\)](#) on the institutional balance at the Council of Europe have received little follow-up from the Committee of Ministers.

19. The Assembly is convinced that the Council of Europe cannot function properly unless there is genuine, substantive and ongoing dialogue between its two statutory organs. The channels of dialogue and consultation between the Assembly and the Committee of Ministers must be revitalised. In this context, the Assembly welcomes the positive spirit prevailing in the recent informal meetings between its Presidential Committee and the Bureau of the Committee of Ministers.

20. Regarding the Council of Europe's future activities, in addition to the points set out in the Declaration of the Committee of Ministers on the occasion of the Organisation's 60th anniversary (CM(2009)50 final), certain other fields warrant particular attention, such as crisis prevention, particularly in frozen conflict zones; analysis of the causes, and prevention of, terrorism and political extremism; urban violence; increased citizen participation in political life and the impact of the economic crisis on democracy and human rights.

21. The Assembly considers that greater prominence should be given to the Council of Europe's various activities in the field of democracy, and that on the basis of different mechanisms and structures existing in this field, such as the annual Forums on the Future of Democracy, the Assembly's biennial debates on the state of democracy in Europe, the Venice Commission, the Summer University for Democracy and the Council of Europe's Schools of Political Studies network, a "Davos of Democracy" should be established as an expert "think-tank" and discussion forum which could become an internationally high-profile centre of excellence and reference.

22. Furthermore, given the effects of globalisation, the extra-European dimension of all the issues addressed at the Council of Europe should be taken into account.

23. Regarding the situation of the European Court of Human Rights, the Assembly re-affirms its support for the Court's unique role and its firm position on the need for Protocol 14 to the ECHR to come into force, and hopes that, in the meantime, the rapid entry into force of Protocol 14bis will permit a partial improvement in the situation. It stresses the obligation for all member states to comply fully with its judgments. In so doing, it refers to its [Opinion 272 \(2009\)](#) on the budgets of the Council of Europe for the financial year 2010, and reiterates its position as set out in paragraphs 6-16 of that Opinion. It expects strong initiatives to emerge from the conference on the functioning of the Court scheduled for early 2010 so that a political solution can be found to the current deadlock which jeopardises the survival of the European justice system in the field of human rights protection.

24. The Assembly calls on all the member states to:

24.1. play their role fully and shoulder their responsibilities as individual, fully-fledged members of the Council of Europe, regardless of their positions vis-à-vis other organisations;

24.2. demonstrate their commitment to the Council of Europe through more active participation in its activities, increased funding of those activities, greater support for its legal instruments and stricter compliance with their obligations;

24.3. avoid issues falling within the sphere of fundamental principles and values to be politicised, relativised or exploited, to the detriment of those principles and values and compliance with them;

24.4. not to regard criticisms that may be levelled at them in the Council of Europe framework as action against them or as a means of pressure, but rather as an approach aimed at eliminating deficiencies and improving the functioning of democracy and respect for human rights;

24.5. ensure strict compliance with and full and effective implementation of the Council of Europe's legal instruments, and to guarantee the unhindered operation of the Organisation's independent monitoring mechanisms and full implementation of their recommendations.

25. The Assembly calls on European political leaders at all levels to show political will in order to ensure unwavering support for the Council of Europe in the performance of its statutory functions.

26. The Assembly is aware that its own activities and working methods must constantly be subjected to objective critical analysis. In particular, it is necessary to resist the temptation to exploit and relativise, according to the political opportunity, the problems which fall within the sphere of fundamental principles and values, to their detriment, and to show political courage in censuring behaviour that is inconsistent with those principles and values. The individual commitment of members of the Assembly to its cause and participation in its activities are essential. The downward trend in members' participation in the activities of the Assembly, which is actually reflection of political disengagement, must absolutely be reversed.

27. The Assembly expresses its firm intention to contribute even more, through all its activities, to ensuring that the Council of Europe remains a key element of the European institutional architecture, a reference institution in its basic spheres of competence, and a driving force for multidimensional pan-European co-operation in other areas of its activities.

28. With regard to its own activities, the Assembly resolves to:

28.1. urge its members to make full use of their national legislative mandates to promote the Council of Europe's values, give full support to its activities, including as regards its budget, and to make known its own work;

28.2. step up its activities with regard to development of the legal basis of democracy;

28.3. study, in the positive spirit of the recent informal meetings between the Presidential Committee of the Assembly and the Bureau of the Committee of Ministers, ways of boosting dialogue and revitalising the channels of consultation with the Committee of Ministers, and improving co-operation between the different Council of Europe bodies on crucial issues relating to democracy, human rights and the rule of law;

28.4. consider establishing machinery for co-operation with the Committee of Ministers and, if appropriate, other Council of Europe bodies in order to ensure a co-ordinated response in the field of crisis prevention and conflict resolution;

28.5. invite various specialised ministers in the member states more often to participate in its debates;

28.6. strengthen its co-operation and seek to develop true partnerships with the national parliaments of the member states;

28.7. consider, in co-operation with the national delegations concerned, ways of establishing prior dialogue with the representatives of the states due to hold the Chairmanship of the Committee of Ministers, in order to contribute to drawing up the programmes and defining the priorities of future Chairmanships;

28.8. examine the desirability of appointing as *ex officio* members of its Bureau the chairs of the parliamentary delegations of the Troika countries (outgoing, current and next Chairs of the Committee of Ministers) in order to increase parliamentary influence on the Chairmanships of the Committee of Ministers and ensure greater continuity of the Assembly's work;

28.9. ensure greater relevance of its activities and more rigorous selection of the issues to be dealt with, so as not to allow itself to be instrumentalised by the national or party interests;

28.10. envisage ways of increasing activities aimed at specific social groups and, in particular, examine the possibility of organising regular meetings of a European Youth Assembly in Strasbourg;

28.11. examine the desirability of going back to a three-year term of office for its President and its committee chairs in order to ensure greater continuity in its work;

28.12. intensify the co-operation with the European Parliament on the basis of the agreement on the strengthening of co-operation between the two institutions;

28.13. strengthen its relations with external partners and, in particular, promote closer links with the parliaments of Europe's neighbouring countries under the status of "Partner for Democracy".

B. Draft recommendation

1. At this point when the Council of Europe is commemorating its 60th anniversary, we are celebrating the undeniable achievements the Organisation has made during its six decades of activities and the role that it has played in the democratic transformation of Europe. At the same time, this occasion provides us with an opportunity to reflect on and analyse, in a frank and objective way, the position of the Council of Europe in the European institutional system, its strengths and its potential, not forgetting its flaws, weaknesses and limitations. This is essential if we wish to adapt the Council of Europe to the new challenges, so that it remains a key institution in the process of building a united Europe based on the principles and values of democracy, human rights and the rule of law, and continues to guarantee the effective promotion and protection of these principles and values.

2. The Parliamentary Assembly and the Committee of Ministers, the two statutory organs having general responsibility for the Council of Europe, have a duty to undertake this reflection together. In this context, the Assembly refers to Resolution(2009) on the future of the Council of Europe in the light of its 60 years of experience, and invites the Committee of Ministers to take due account of the ideas, concerns and proposals contained in that text.

3. The Assembly is convinced that the effectiveness of the Council of Europe and its position in the European institutional architecture primarily depend on its member states' degree of commitment to it. It believes that it is essential to ensure that this commitment leaves no room for doubt and is confirmed by tangible acts. To this end, it urges the Committee of Ministers to:

- 3.1. strengthen the political scope of the Committee of Ministers' ministerial sessions, so that each session becomes a major political event at which substantive political decisions are taken;
- 3.2. study the advisability of holding, at regular intervals, Council of Europe summits, to decide on the strategic direction to be taken, with due consideration being given to the encouragement they give to the Organisation's activities;
- 3.3. promote more actively the legal instruments drawn up at the Council of Europe and encourage the signature and ratification of these instruments by member states;
- 3.4. avoid any possibility of new dividing lines emerging within the Council of Europe itself on account of the fact that some of its member states may belong to other organisations, and in particular to seek to reduce the influence of the European Union and the latter's Presidency on decision-making within the Committee of Ministers;
- 3.5. review the Council of Europe's budgetary strategy in order to provide it with the resources it needs to carry out its tasks;
- 3.6. give greater significance to the Council of Europe's conferences of specialised ministers and their links with, and impact on, the Organisation's day-to-day activities, and in particular to consider the possibility for the specialised ministries to contribute to the financing of certain Council of Europe activities within their areas of responsibility in exchange for delegating some of the Committee of Ministers' powers to a given conference, notably with regard to the choice of priorities for the Organisation's intergovernmental activities, as proposed in Committee of Ministers' Resolution (89)40.

4. The Assembly considers that greater prominence should be given to the various activities of the Council of Europe in the field of democracy. It recommends that the Committee of Ministers study with it the setting up, on the basis of the different mechanisms and structures existing in this field such as the annual Forums for the Future of Democracy, the Assembly's biennial debates on the state of democracy in Europe, the Venice Commission, the Summer University for Democracy and the Schools of Political Studies network, a "Davos of Democracy", an expert "think tank" and discussion forum, which could become an internationally high-profile centre of excellence and reference.

5. The Assembly is convinced that the Council of Europe cannot function properly unless there is genuine, substantive and ongoing dialogue between its two statutory organs. The channels of dialogue and consultation between the Assembly and the Committee of Ministers must be revitalised. In this context, the Assembly welcomes the positive spirit prevailing in the recent informal meetings between its Presidential Committee and the Bureau of the Committee of Ministers. It urges the Committee of Ministers to:

- 5.1. review its working methods regarding the preparation of replies to Assembly recommendations to ensure that these replies are drafted more speedily (in principle, within six months) and with greater attention being paid to substance;

- 5.2. provide for a reasonable timeframe (in principle, not less than three months) for the statutory consultation of the Assembly on draft conventions, and to keep the Assembly regularly informed of the follow-up given to the draft amendments contained in its statutory opinions;
 - 5.3. study, together with the Assembly, the ways and means of making the Joint Committee a genuine forum for substantive dialogue and effective consultation between the two organs, for example by convening it only where necessary and at the level of political decision-makers;
 - 5.4. study, together with the Assembly, how to give a higher profile and greater political substance to the traditional exchanges of views between the Assembly's Standing Committee and the new Chairmanship of the Committee of Ministers;
 - 5.5. step up dialogue with the Assembly in all the ways that have proved effective, such as the contacts between the President of the Assembly and the Chairman of the Committee of Ministers, the informal meetings between the Presidential Committee of the Assembly and the Bureau of the Committee of Ministers, the working contacts between the Assembly committees and the Committee of Ministers' Rapporteur Groups;
 - 5.6. consider establishing machinery for co-operation between the Assembly and the Committee of Ministers and, if appropriate, other Council of Europe bodies, to ensure a co-ordinated response in the field of crisis prevention and conflict resolution;
 - 5.7. consider setting up an appropriate framework for exchanges of views between the Assembly and the Committee of Ministers regarding the Council of Europe's priorities for the coming year and the results obtained the previous year.
6. The Assembly considers therefore, that the Council of Europe's internal functioning, particularly as regards relations between its statutory organs, should be brought more fully into line with the democratic principles and values it defends. It reiterates its proposals set out in [Recommendation 1763 \(2006\)](#) on the institutional balance at the Council of Europe, and urges the Committee of Ministers to:
- 6.1. pursue dialogue with the Assembly on the institutional aspects of the functioning of the Organisation;
 - 6.2. reflect in greater depth on the substantive follow-up to all the proposals contained in [Recommendation 1763 \(2006\)](#).

C. Explanatory memorandum, by Mr Jean-Claude Mignon, rapporteur

1. Introduction

1. At the 119th ministerial session, held in Madrid on 12 May 2009, the Committee of Ministers adopted a declaration on the occasion of the 60th anniversary of the Council of Europe, which sets out a series of principles and guidelines for the Organisation's future action.
2. At its meeting held in Paris on 26 May 2009, the Political Affairs Committee took note of this document and considered that a wider-ranging, more detailed debate on the future of the Organisation was necessary. It accordingly proposed to the Bureau that a general policy debate on "The future of the Council of Europe in the light of its 60 years of experience" be included on the agenda of the Assembly's autumn 2009 part-session.
3. The Bureau accepted this proposal. In May 2009 the Standing Committee referred the matter to the Political Affairs Committee. The latter held an initial exchange of views on the subject in June 2009 and appointed me as its rapporteur.
4. The aim of this report is therefore to propose, with a view to the general policy debate to be held in October 2009, some food for thought on the evolving role of the Council of Europe and its adaptation to the realities of modern-day Europe.
5. While preparing the report, I had discussions with a number of people, including many colleagues in the Parliamentary Assembly, as well as with several member states' Ambassadors to the Council of Europe. I wish to thank them for their valuable input. I also look forward to the Conference on *What future for human rights and democracy in Europe? The role of the Council of Europe* which our Committee will hold on 11 September 2009, and I intend to attach the summary of discussions of this conference as an appendix to this report.

2. Analysis of the Council of Europe's activities and its place in Europe

2.1. Principal achievements of the Council of Europe

6. In this year of the Council of Europe's 60th anniversary it is worth recalling the ground covered by our Organisation since its inception, the role it has been able to play and that for which it is destined, its position in relation to other European organisations, its strengths and its potential, not forgetting its flaws, weaknesses and limitations. It is only through such a critical, frank, sometimes even painful, analysis that an in-depth debate can be held on the state of this institution, its development prospects and its possibilities of adapting to new challenges. An open-minded debate should result in the identification of measures to be taken to enhance our Organisation's relevance, functioning and effectiveness.
7. The foundation of the Council of Europe in 1949 was a challenge. In a Europe where relations between states were determined by power struggles and by differing, or even conflicting, "national interests" – a Europe ravaged by the years of war, hatred and hostility, the cause of so much human suffering – the founders of the Council of Europe proclaimed loud and clear that the fundamental values of democracy, the rule of law and human rights constituted the foundations on which a new Europe – a Europe of peace and co-operation – must be built. The newly created Organisation was accordingly given the task of asserting, safeguarding and promoting these common principles and values.
8. Today, after sixty years in activity, the Council of Europe is an element to be reckoned with in European politics and a key player on the continent's institutional stage. It has had a major role in the democratic transformation of a number of countries within our continent. It now brings together virtually all the countries of Europe and, thanks to mechanisms for monitoring the fulfilment of the binding legal obligations entered into by states upon their accession, scrutinises the implementation and the upholding of the principles of democracy and human rights in the member states.
9. The key role of the Council of Europe, and the very cornerstone of its activities, therefore consists in defining, codifying, protecting (not least by legal means) and promoting the fundamental principles and values set out in its Statute – human rights, democracy and the rule of law.
10. Attention must also be drawn to the Council of Europe's role in establishing a Europe-wide common legal area based on the rule of law. This area is determined by the Organisation's standard-setting activities and its approximately 200 conventions, a number of which are open to non-member states, including countries outside Europe. Among these conventions, the Convention for the Protection of Human Rights and

Fundamental Freedoms is of particular importance as a legally binding instrument of European public policy and thus enjoys quasi-constitutional rank. Mention must also be made of the binding case law of the European Court of Human Rights, constituting a key source of European human rights law.

11. The Council of Europe is also an important forum for pan-European political dialogue and co-operation at different levels: intergovernmental, parliamentary, local government, civil society representatives. One of its main strengths is its capacity to address problems confronting society in the medium-to-long term, thereby serving as a “think tank” and devising common policy responses. It is also an ideal context for pursuing close co-operation between ministers and governmental experts in specialist areas.

12. In addition, it continues to be a broad, inclusive political forum, encompassing European Union member and non-member states, Russia and Turkey in particular, and open to political and intercultural dialogue with neighbouring states in Northern Africa, the Middle East and Central Asia.

13. The parliamentary dimension of the Council of Europe is one of its key assets. The Parliamentary Assembly constitutes a debating platform for the representatives of the national legislatures and opens up unprecedented prospects for parliamentary co-operation.

14. Over its sixty years of existence, the Council of Europe has often played a pioneering role in many areas of co-operation. At the same time, it has had to adapt to changing circumstances and to curtail some of its activities, taken up by other institutions. In this connection, mention can be made of the decisions adopted at the three consecutive Summits of Heads of State and Government of the member states of the Council of Europe, held respectively in Vienna in 1993, Strasbourg in 1997 and Warsaw in 2005, which redefined the Organisation's activities in line with political developments, so as to contribute to its essential goal of safeguarding and promoting human rights, democracy and the rule of law.

2.2. Weaknesses and limitations

15. The unquestionable results achieved by the Council of Europe should not conceal the fact that it has come up against some difficulties, nor preclude a detailed analysis thereof. It is only by pinpointing and recognising the flaws that action can be taken to eradicate them. A brave and bold discussion is absolutely essential to determine the tangible measures that can improve our Organisation's functioning.

16. The difficulties encountered by the Council of Europe are of two types: firstly, there are external factors, over which the Organisation itself has no control, that have to do with the European architecture, Europe's institutional structure and the political will of European leaders.

17. Secondly, there are internal or institutional limitations within the Organisation that can undermine the effectiveness and success of the Council of Europe's action and the attainment of its objectives.

18. With regard to the external factors, the place and importance of the Council of Europe in the European architecture primarily depends on its member states' degree of commitment to it. Although the Council of Europe is the oldest of the existing European organisations, it is not alone. Two other organisations, the European Union and the OSCE, are particularly significant in terms of their standing, their fields of activity and their membership. It can be noted that these three European institutions are increasingly converging as regards their membership and their spheres of competence. A number of questions relating to the need to co-ordinate their activities are therefore on the agenda.

19. Following the decisions taken at the 3rd Summit of Heads of State and Government of the member states of the Council of Europe, which came out in favour of enhanced complementarity between the three institutions, taking into consideration their respective competences and fields of excellence, co-operation agreements (Memorandums of Understanding) were signed with each of the organisations concerned. A report taking stock of the implementation of these co-operation arrangements is currently being prepared by our fellow Assembly member Mr Wilshire, who will submit it to us in the near future. For my part, I believe that it is necessary to work more actively in the sense of a privileged partnership with the OSCE. Even if the activities of our two organisations sometimes give way to certain frictions or misunderstandings, the Council of Europe and the OSCE are really complementary, since the OSCE has competencies in matters of security that the Council of Europe does not have.

20. Nevertheless, even if the agreements are fully implemented and complied with, co-operation is no substitute for the political will of those in power within the member states to give the Council of Europe a status and an importance commensurate with its assigned role.

21. It is true that the member states make many declarations of unwavering support for our Organisation, but at the same time there can be no misreading certain signs, which are a cause for concern. The foreign ministers' low level of participation in the ministerial sessions is one of the most visible of these signs. Our ministers, who together compose one of the statutory organs of the Council of Europe, see each other far more often in other contexts (the United Nations, the European Union, the OSCE) than they do in the Committee of Ministers' meeting room.

22. The budget of the Council of Europe, the ordinary part of which has been subject to a zero growth constraint for a number of years now, says a great deal about where the Organisation comes in the member states' priorities. By refusing to give the Council sufficient resources with which to perform its tasks, are the governments not showing their preference for other formats when it comes to dealing with priority issues?

23. Can it not be said that the increasingly frequent practice whereby, when decisions are taken within the Committee of Ministers, the European Union member states tend to rally to the position of the EU presidency also reflects a worrying trend: a shift of the decision-making centre from Strasbourg to Brussels, a growing disinterest for the Council's affairs among the members of the EU and attempts to sideline the Council to the EU's advantage? This state of affairs would appear to be even more serious if account is taken of the tendency of the EU candidate and partner states to side with the Union.

24. Other worrying signs include the half-hearted attitude of certain member states when it is a question of acceding to Council of Europe conventions, which they nonetheless have helped to draw up.

25. Lastly, there is the disturbing tendency to play down, and sometimes even question, the importance of the various independent "monitoring" mechanisms established within the Council of Europe (such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Commission against Racism and Intolerance (ECRI), the Framework Convention for the Protection of National Minorities (FCNM), the European Social Charter (ESC) and even the Court of Human Rights and the Human Rights Commissioner).

26. The Parliamentary Assembly is also not blameless. We have long noted a very low level of participation in debates and committee meetings. The measures taken to improve members' attendance records have unfortunately not brought any tangible results, and this situation can be a source of embarrassment when the press publishes the voting numbers.

27. One key, highly sensitive issue question concerns a potentially very dangerous, worrying trend that has been evident for some time now in the Organisation's functioning, namely a degree of "politicisation" of issues of relevance to the Council's fundamental values, to their detriment. Some people even call this "double standards" or a lack of courage and political will. Although they may be regarded as unduly harsh, these criticisms cannot be ignored and must be discussed.

28. In this connection, we have an obligation to cast a critical eye on certain decisions of the Assembly – or rather the lack of decisions – in so-called sensitive matters. Do we always have the necessary political courage to censor, using the means at our disposal, behaviours which we regard as contrary to our principles and values? Do we not too easily give in to the temptation to resort to "*Realpolitik*" rather than doing our duty of safeguarding these principles and values?

29. The second type of limitation on the action of the Council of Europe concerns the Organisation's internal functioning, the inter-institutional balance and the democratic dimension. Although all these questions are more a matter for the committee that deals with inter-institutional affairs (the Committee on Rules of Procedure), I feel obliged to raise them here, while referring, *inter alia*, to the relevant reports by the competent Committee.²

30. Alongside the Committee of Ministers, the Parliamentary Assembly is one of the two statutory organs of the Council of Europe. Composed of members of the lower and upper houses of the member states' national parliaments, it is intended to embody the democratic nature of the Organisation and to ensure that European citizens are represented in the European political process.

2. For example [Recommendation 1763 \(2006\)](#) on the *Institutional balance at the Council of Europe*, as well as the report in course of preparation on *Lack of appropriate follow-up by the Committee of Ministers, the works of the Parliamentary Assembly*.

31. It is therefore a genuine political driving force for the Organisation. The national elected representatives sitting within it systematically relay to the European level the major societal issues they come up against at the national level, so as to identify common responses to them. The Assembly moreover derives most of its legitimacy from this representativeness; its political independence and its ties with the national parliaments help to reinforce its institutional position both within the Organisation and well beyond its confines.

32. However, it must be acknowledged that the Assembly's statutory powers to influence the policy directions of the Council of Europe are fairly limited. Unlike the European Union, the Organisation has no co-decision procedure. Authority to take decisions on behalf of the Council of Europe lies with the Committee of Ministers alone, acting on instructions from the national governments, and the Committee of Ministers is not obliged to give the Assembly's recommendations a positive follow-up.

33. The Committee of Ministers' replies to the proposals made by the Assembly in its recommendations are increasingly unsatisfactory. They are often lacking in substance and tend to come rather late.

34. Moreover, when the Committee of Ministers requests a statutory opinion from the Assembly on a draft convention, it increasingly does so at the last moment. This practice must also be changed so that the Assembly has a reasonable time-limit for fulfilling its responsibilities without being subjected to undue pressure. In addition, the Assembly must be informed of the follow-up reserved by the Committee of Ministers to the amendments proposed. It can be noted that these points were raised in Recommendation 1763 (2006) on *the institutional balance at the Council of Europe*.

35. The recent friction between the two statutory organs concerning the election of the new Secretary General is but one example showing that the institutional balance and democratic functioning of the Council of Europe should be reviewed and improved. The current state of affairs undermines the Council's credibility and does not fail to raise questions as to the democratic nature of the functioning of our Organisation, whose very role is in point of fact to safeguard and promote democracy!

36. The European Court of Human Rights, the Council of Europe's flagship in the field of protection of human rights, is also finding it increasingly difficult to perform its role under the rising pressure of its constantly growing caseload. The hopes of getting justice at last resort which the court inspires in the people of Europe far exceed its processing capacities. Its slow-moving proceedings involve the same delays as it has the task of remedying in cases where they are attributable to the national courts. This situation may bring discredit on the system, with disastrous consequences for the people concerned.

37. An illustration of the above-mentioned causes for concern is the fact that Protocol No. 14, which is intended to simplify and speed up certain procedures at the European Court of Human Rights, has not entered into force. It is to be hoped that the rapid implementation of Protocol No. 14 bis will partly remedy this problem.

38. Another cause for concern is the execution of the Court's judgments. The Assembly recently addressed this problem, and our fellow Assembly member Mr Pourgourides is monitoring the situation on behalf of the Committee on Legal Affairs and Human Rights.

39. Despite a considerable increase in its budget, the Court has not succeeded in eliminating its backlog. There is every indication that exponentially increasing the Court's expenditure to the detriment of other parts of the Council of Europe is not in itself a good strategy.

3. Reinforcing the effectiveness and action of the Council of Europe

40. On the basis of the above observations, the Assembly should initiate a debate on the measures to be taken to enhance our Organisation's effectiveness in both institutional and political terms. It goes without saying that some steps fall outside our competence and must be taken by the Committee of Ministers, while others are a matter for the political will of Europe's leaders. However, I consider that it is our duty to draw their attention to the problems, to highlight our findings and to formulate recommendations.

3.1. The commitment of the Organisation's member states

41. It is absolutely vital to reverse the member states' dangerous tendency to disengage and ensure that their commitment to the Organisation is beyond doubt and confirmed by tangible acts. What is at stake here is the future of the Council of Europe and the survival and effectiveness of its mechanisms.

42. With regard to the ministerial sessions of the Committee of Ministers, a distinction can be drawn between two aspects: the substance of the agenda and the ministers' excessively busy time-tables. With regard to the substance, it is the duty of all Council bodies to enrich it. The Assembly must also make a more active contribution in this area. As for the ministers' overloaded timetables, their participation in other events to the detriment of the Council of Europe clearly shows a lack of commitment to our Organisation. Why not introduce clear attendance requirements and penalise countries not represented at the necessary level?

43. The budgetary situation of the Council of Europe is unacceptable, and certain strategic decisions in budget matters must be reviewed. The Assembly has called for such an approach on several occasions in its opinions. However, so far the Committee of Ministers has not acted on the Assembly's recommendations in these matters. Since the Assembly is statutorily unable to have a fundamental impact on the budget process, its members should make active use of their national parliamentary mandates in order to bring influence to bear at the level of their governments, so that the latter translate their declarations in favour of the Council of Europe into tangible support for its activities, materialised by budgetary decisions.

44. All the member states, regardless of their positions vis-à-vis other organisations, must play their role to the full and assume their responsibilities as individual, fully-fledged members of the Council of Europe.

45. As long as the European Union is not a collective member of the Council of Europe, its influence on decision-making within the Committee of Ministers must be reduced, without this affecting the necessary complementarity and co-operation between the two organisations in accordance with the terms of the Memorandum of Understanding.

46. In view of the experience of the three Council of Europe Summits, which gave the necessary impetus to the Organisation's activities, it would be a good idea to propose the holding of such summits at regular intervals, in order to take fundamental policy decisions on where the Organisation is heading. The effectiveness of a summit naturally depends on the quality of the preparations and on its political agenda. It is therefore essential that the agenda should not solely be a matter for the Ministers' Deputies and should take full account of the contributions of the Assembly and other Council of Europe bodies.

47. I also consider it desirable to give greater significance to the Council of Europe's conferences of specialised ministers and to reinforce their links with and impact on the Organisation's day-to-day activities. The Ministers' Deputies are currently reviewing the rules governing the holding of conferences of specialised ministers. In this context, thought could be given to allowing national ministries to contribute to the financing of certain Council of Europe activities within their areas of responsibility in exchange for delegating some of the Committee of Ministers' powers to a given conference, notably with regard to the choice of priorities for the Organisation's intergovernmental activities, as proposed in the Committee of Ministers' Resolution (89)40. For its part, the Assembly must widen the practice of inviting the various specialised Ministers to come to express themselves in the framework of the plenary debates dedicated to these current events which fall within their competences.

48. At the same time, the Council of Europe would strengthen its standing in the member states and win additional support if it involved even more in its activities civil society representatives in the broad sense. To that end, it can take advantage of a unique institutional framework – the participatory status granted to a large number of non-governmental organisations gathered together within the Conference of INGOs of the Council of Europe.

3.2. The internal democratic functioning of the Council of Europe

49. It is absolutely essential that the Committee of Ministers review its working methods so as to be able to respond more rapidly (for example within six months at most) and, above all, with far more substance to the Assembly's documents. In this connection, it can be recalled that the Committee on Rules of Procedure, Immunities and Institutional Affairs was recently seized for a report on "The lack of appropriate follow-up, by the Committee of Ministers, to the work of the Parliamentary Assembly".

50. It is undeniable that a stronger, more active Assembly that is more listened to (and better heeded) would help reinforce the Organisation as a whole, its democratic legitimacy and its effectiveness in serving the people of Europe. This makes it important to envisage means of enhancing the Assembly's political status, authority and potential. In this context, the proposals contained in the above-mentioned Recommendation 1763 (2006) remain very relevant. It is moreover to be hoped that the recent informal meetings between the Presidential Committee of the Assembly and the Bureau of the Committee of Ministers, which have so far allowed some constructive exchanges of views, will bring the desired results.

51. On the same subject, mention can be made of the requests issued by the Assembly on a number of occasions – not least in [Recommendation 1763](#) – concerning the necessary reinforcement of its statutory role, particularly with regard to its involvement in the drafting, adoption and application of legal instruments of the Council of Europe, its place in decision-making and its powers relating to the budgetary process, scrutiny of the Organisation's activities and a number of other fields. It is regrettable that most of these requests have not been followed up by the Ministers' Deputies.

52. The existing channels of dialogue between the Assembly and the Committee of Ministers are over-formalised and far from efficient. Inventive solutions must be found to restore continuity, openness, dynamism and consistency to this dialogue.

53. In this connection, mention should be made of the recent regular informal meetings between the Presidential Committee of the Assembly and the Bureau of the Committee of Ministers, and the contacts between the President of the Assembly and the Chair of the Ministers' Deputies. These practices should be developed, in particular so as to co-ordinate the viewpoints of the two organs of the Council of Europe, particularly on topical issues, on the prevention of conflicts or with regard to crisis situations.

54. The traditional exchanges of views that take place between the new Chairmanships of the Committee of Ministers and the Assembly within the context of the Standing Committee's meetings should also be given a higher profile and more political substance.

55. Cross-participation of representatives of the Assembly (for example Committee Chairs and Rapporteurs) and of the Deputies (for example the Chairs of the Rapporteur Groups) in the other body's work should be encouraged and promoted.

56. The functioning of the Joint Committee must also be reviewed. In its current form it is of scant usefulness as a forum for dialogue and consultation between the Assembly and the Committee of Ministers. Would it not be justifiable to revert to the principle of a Joint Committee at ministerial level, meetings of which would be convened only if necessary to permit a genuine dialogue between political decision-makers?

3.3. The role of the Parliamentary Assembly

57. Apart from the inter-institutional aspects, it is within the Assembly itself that its importance and relevance are determined. Its role is shaped by the commitment of its member parliamentarians, by we ourselves my dear colleagues, by our courage, our tenacity and our determination. It is essential that we remain loyal to our values, that we protect them without compromising them and that we sanction any breaches thereof without hesitation, while remaining open to constructive dialogue and co-operation. The Assembly must remain the conscience of Europe. For that reason, we must not allow "Realpolitik" to gain the upper hand over our basic principles and values.

58. It is also important that the Assembly should be able to make full use of the strength it derives from the national legislative powers of its members. I refer here to the report presented some months ago by our fellow Assembly member Lord Tomlinson on "Use by Assembly members of their dual parliamentary role – both national and European." As national parliamentarians, Assembly members enjoy certain powers in respect of their home countries' governments. They should make more active use of their national mandates to promote the values of the Council of Europe, make its activities better known, defend the Assembly's standpoints and thereby influence the stances adopted by their respective ministers and diplomatic agents within the Committee of Ministers.

59. At a more general level, the Assembly's relations with the national parliaments should be intensified and be transformed from mere formal exchanges into a genuine partnership. The Assembly should be able to count on strong support for its initiatives by the national legislative assemblies, and vice versa. This would help reinforce parliamentary democracy in Europe at the national and the international levels, and would ultimately serve voters' interests.

60. In this connection, mention must be made of the European Conferences of Presidents of Parliaments organised by the Assembly every two years. Would it not be appropriate to consider means of reinforcing the link between these conferences and the work of the Assembly, so they can contribute to the definition and the implementation of the Assembly's priorities?

61. Another way of reinforcing the Assembly's influence on political choices and decisions to be taken at the level of the Organisation could be to establish more active, advance co-operation with the rotating Chairmanships of the Committee of Ministers. These Chairmanships have an essential role in determining the

priorities of the Council of Europe for their six-month terms. At present, the country next to hold the Chairmanship does not consult the Assembly on the priorities it plans to promote, and the Assembly has only limited means of reacting once these priorities have been decided and made public.

62. Consideration should be given to making arrangements for the Assembly (for example through its Bureau) to hold an exchange of views with the parliamentary delegation of the country next to hold the Chairmanship before the priorities are finalised, that is to say in advance. This would make it possible to involve the parliamentary dimension, and the Assembly a voice, in the choice of policy directions for the Organisation's activities, while allowing the future Chairmanship of the Committee of Ministers to take account of the suggestions made and concerns expressed by the representatives of the people of Europe. Thought could also be given to the desirability of making the Chairs of the parliamentary delegations of the "troika" countries (the outgoing, current and next Chairmanships) ex officio members of the Bureau. This would allow a reinforcement of parliamentary influence on the Chairmanship and ensure greater continuity in the Assembly's action.

63. To enhance the relevance of its work and the credibility of its decisions, the Assembly should be more rigorous when selecting the themes of its debates, even if that means producing less reports. At present, attempts to utilise the Assembly's authority to attain narrow partisan or national political objectives, or to put pressure on a given state, government, parliament or political party, are a not infrequent occurrence.

64. Such practices harm the image of the Assembly as the trustee of Europe's collective conscience and may undermine the credibility of its decisions. It is accordingly necessary to prevent the Assembly's reputation from being exploited and to ensure that its work concerns general interest European political issues and new challenges to European societies, without ever losing sight of the three key fields of human rights, democracy and the rule of law.

65. Many reports and resolutions have been published on the problem of the low profile of the Assembly's work and of the Council of Europe as a whole. However, it can but be said that little has changed here, and the Assembly is still not well known among the general public. It is true that some of the proposals set out in [Resolution 1498 \(2006\)](#) "Enhancing the visibility of the Council of Europe" have been implemented and have allowed a revision of the Assembly's communication strategy. Nonetheless, further efforts are needed with regard to the content of communication to give greater prominence to the most emblematic activities of the Assembly. The positive experience of the recent campaign to combat domestic violence against women could serve as an example here.

66. Activities targeting certain social groups should also be developed to enhance the Assembly's influence and reputation in these circles. In this connection, the regular holding of a Council of Europe Youth Assembly in Strasbourg might be envisaged as a means of involving representatives of the young people of Europe in the political life and work of our Organisation. Such an Assembly, focusing on the key issues relating to the functioning of democratic societies, could help reinforce Strasbourg's image as a pole of reference in democratic matters – a sort of "Davos of democracy". I will say more about this in paragraph 89 below.

67. To guarantee greater continuity of the Assembly's action, I deem it appropriate to reconsider the recent decision to set a two-year limit on the terms of office of the President of the Assembly and the Chairs of committees. I am aware that this is a matter for the Committee on Rules of Procedure, Immunities and Institutional Affairs. However, it is our duty to pose the problem in political terms, since the President of the Assembly and the Chairs of the committees play an important role in determining priorities and exercise considerable influence over the Assembly's activities. So they can play this role to the full, the previous three-year limit should be reinstated.

68. The Assembly has a sound international reputation and benefits from an extensive network of institutional partnerships ranging well beyond the confines of Europe. Its experience and work are of interest to, and serve as an example for, a number of parliaments and parliamentary associations of states not members of the Council of Europe. It has close relations and co-operation agreements with a number of regional assemblies both in Europe and in other parts of the world.

69. It should continue to turn this interest to advantage in spreading the Organisation's values and principles. In particular, co-operation with the parliaments granted observer status by the Assembly should be reinforced.

70. The new status of “partner for democracy” opens up further possibilities for stepping up the Assembly’s co-operation with the parliaments of Europe’s neighbouring states, broadening the Organisation’s *acquis* beyond the borders of its member states and offering the new partners the benefit of the Council of Europe’s expertise and experience in its fields of excellence. It should help to reinforce our standing as a leading international parliamentary institution.

3.4. The Court – how to break the deadlock?

71. I have already mentioned the problems arising from the non-entry into force of Protocol No. 14 and the interim solution offered by the rapid implementation of Protocol No. 14 bis, which would permit a partial improvement in the situation. In this connection, I would point out that the Assembly has adopted a position of principle as to the absolute need for Russia to ratify Protocol No. 14, so that it can come into force. However, it must be acknowledged that Protocol No. 14 is no miracle solution. The Court’s real problem is the weakness of the member states’ domestic justice systems, the lack or insufficiency of effective remedies and the deficiencies in the execution of judicial decisions, including the judgments of the Court, to mention but a few difficulties. The main effort should therefore focus on repairing the systemic flaws of the national justice mechanisms as the sole means of restoring public confidence. Without going into details, I refer here to the work of the Committee on Legal Affairs and Human Rights, notably the report being prepared by Ms Bemelmans-Videc on “Guaranteeing the authority and effectiveness of the European Convention on Human Rights”.

3.5. Enhancing the Council of Europe’s relevance for the member states and for all Europeans

72. I am convinced that the Council of Europe remains the organisation best suited to guarantee the protection and promotion of the fundamental principles and values enshrined in its Statute, which are the common heritage of all Europeans. To preserve its pioneering role in such matters and develop its potential to the full, the Organisation must continue to exercise vigilance regarding changes taking place within our states, identify new societal issues and trends, permit the pooling of national solutions and rapidly propose appropriate common responses, have no hesitation about dealing with controversial subjects, ensure better implementation and more transparent follow-up of its decisions (for example by more forcefully promoting the signature and ratification of its conventions), significantly enhance its visibility and raise its profile among decision-makers and the public, be attentive to others and increase the number of two-way communication channels so as to enhance its contacts with all strata of society, not least the public at large.

4. Where does the Council of Europe’s future lie?

73. Although the Council of Europe’s track record over its sixty years of existence can be considered satisfactory, this achievement alone offers no guarantees as regards the Organisation’s future, especially as it has to face a number of new challenges.

4.1. Relevance

4.1.1. Are the Council of Europe’s values still relevant today?

74. The Europe of 2009 is very different from that of 1949. The concepts of democracy and human rights have taken a firm hold in the minds and daily lives of the people of Europe. But does this mean that these principles and values no longer need to be protected?

75. I am deeply convinced that the efforts to promote democracy and human rights must never cease, first and foremost because human societies are far from perfect: they involve a multitude of day-to-day conflicts affecting individuals and communities and setting them one against the other; it comes as no surprise that certain rights may be breached in this process. It is therefore of key importance that our societies, which have asserted their attachment to our fundamental values, should be in a position to guarantee their protection.

76. Account must also be taken of the fact that democracy and human rights are not immutable concepts. On the contrary, they evolve at the same pace as life itself, which is constantly changing. New aspects of democracy and human rights emerge as a result of technical progress, social trends or new challenges confronting society. Our efforts to promote and protect the fundamental values must therefore be attuned to these developments.

77. Lastly, in an increasingly globalised world, the universal nature of our human values, such as human rights and democracy, is becoming a contemporary concern owing to the fact that it is often challenged; some countries seek to play down or even refute this universality, invoking their own “systems of values”. The universal protection of human rights and democracy is becoming a major issue.

4.1.2. Is the Council of Europe still the appropriate body within which to promote and protect these principles and values?

78. It is reassuring to note that, over the years, the protection and promotion of fundamental principles and values have come to occupy an important place in international relations. Several international and European organisations are active in this area.

79. At world level, reference can be made to the efforts undertaken within the United Nations, which enshrined human rights in its fundamental instruments – the Charter (1945) and the Universal Declaration of Human Rights (1948). Mention must also be made of the activities of the UN Human Rights Council and of the various committees set up by this organisation to implement the international treaties on human rights, as well as of the High Commissioner for Human Rights and the special rapporteurs.

80. In Europe, the principal institutional partners of the Council of Europe, namely the European Union and the OSCE, are also active in this field. For the European Union, human rights, democracy and the rule of law are essential values embodied in the founding treaty and reinforced through the adoption of a Charter of Fundamental Rights (2000). A European Union Fundamental Rights Agency was established in 2007 to provide the EU’s organs and member states with assistance in these matters.

81. The basic texts of the OSCE (such as the Helsinki Final Act of 1975, the Charter of Paris for a New Europe and the 1990 Copenhagen Document on the human dimension) also refer to human rights, democracy and the rule of law and require the OSCE’s participating states to protect and promote these values. The OSCE devotes an important part of its activities to these fields. It also has a specialist body to deal with these matters – the Office for Democratic Institutions and Human Rights.

82. However, the Council of Europe is the sole pan-European organisation whose statutory aim is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles, based on spiritual and moral values which are their common heritage – political freedom, personal freedom and the rule of law – on which all true democracies are founded.

83. The mechanisms put in place within the Council of Europe to promote and protect these principles and values are without doubt the most elaborate world-wide. They cover all aspects of human rights, democracy and the rule of law, are capable of adapting to developments and meeting new challenges and serve as a reference for other organisations. The experience amassed through these mechanisms, including the case law of the European Court of Human Rights, constitutes a key asset and achievement. Naturally, if the Council of Europe is to retain its pioneering role in these matters, care should be taken to ensure that its instruments remain fully operational, are kept in line with societal trends and, above all, are implemented fully and effectively.

4.2. New challenges

84. The end of the Cold War and the collapse of the communist regimes in Eastern Europe allowed the peaceful reunification of Europe on the basis of shared principles and values. The ideological dividing lines of the past no longer threaten Europe’s unity and stability. Nonetheless, it cannot be assumed that our continent’s peace and security are guaranteed once and for all. The Council of Europe must remain vigilant so as to anticipate new challenges to democracy and human rights and step up its efforts to respond to the “traditional” threats that continue to affect European societies.

85. The war in the Caucasus in August 2008 was a failure of the European crisis prevention system. The risk of clashes continues to exist in many so-called “frozen conflict” zones, endangering the stability of Europe as a whole. The Council of Europe should be doing far more than before in the field of conflict prevention, using the specific means at its disposal and in co-ordination with the other European and international players concerned. The Forum on Early Warning in Conflict Prevention which the Political Affairs Committee is organising in September 2009 could provide new food for thought on this subject. The political mediation capacities of the Organisation’s various bodies should be pooled and more actively utilised. It is essential that, when faced with a conflict or a crisis, these bodies adopt a co-ordinated response.

86. Although their nature and causes are different, terrorism and political extremism (movements which are ready to use violence or which spread hatred and intolerance) both seek to misuse the benefits of the democratic system for purposes that run counter to its fundamental values. The Council of Europe has already made considerable efforts to identify common, carefully measured responses to these phenomena. At the same time, it has stressed the absolute need for strict compliance with the basic principles and values and with human rights standards when seeking to combat them. Reference can be made here to the stances adopted by the Assembly in relation to the two reports submitted by Mr Marty entitled "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states" (June 2006) and "Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report" (June 2007). The underlying causes of these phenomena should be more thoroughly analysed, and a greater prevention effort should be made, but without relaxing our vigilance in matters of respect for human rights.

87. Many cities in Europe have experienced a recrudescence of urban violence and the emergence of genuine lawless neighbourhoods. Pooling national experience of preventing and managing this dangerous social phenomenon is a task for the Council of Europe in view of its expertise in the social field and in rule of law matters. The debate on these problems initiated by the Congress of Local and Regional Authorities of Europe should be broadened and deepened.

88. The public's declining interest in politics and lower election turnouts, both of which are clear to see in many European countries, are also a danger for the stability of democratic systems, since they diminish the social foundations of democracy and its legitimacy. The Council of Europe must reinforce its activities relating to trends in democracy and give consideration to consolidating the common legal basis in these matters.

89. In this connection, it must be acknowledged that, although the Council of Europe has a high public profile and an undoubted reputation as regards the protection of human rights, the same cannot yet be said of its activities relating to democracy. Our Organisation nonetheless has a number of mechanisms and structures that lend themselves to a consolidation of its pioneering role in this field: the annual Forums for the Future of Democracy, the Assembly's biennial debates on the state of democracy in Europe, the Venice Commission, the Summer University for Democracy, which brings together in Strasbourg the young leaders participating in the Schools of Political Studies network. Is it not now time to reinforce, co-ordinate and give more visibility to all these activities so as to establish their Strasbourg base as a genuine "Davos of democracy" – a high profile think tank and debating forum on democracy?

90. In the same order of ideas, I believe that an important thorough work is needed on the fundamental values defended by the Council of Europe. In a more and more globalised context, where principles and values, traditionally conceived as universal (such as human rights ...) are more and more criticised as an emanation of a particular culture (by China, Iran, by the Western relativism itself) we need to reaffirm them in new formulations, adapted to our times. Obviously, the universal character of the values defended by the Council of Europe does not exclude the promotion of the cultural diversity, to the contrary. Its exactly the articulation between universality and particularity that offers the the most certain means to make applicable our fundamental values. Why not make, under the aegis of the Council of Europe, a vast european network of politicians, academics, philosophers and theologians, work on these questions?

91. The current global economic crisis is putting many issues on the agenda: the business sector's social responsibility, protection of human and social rights in periods of recession and, more generally, the economy's impact on democracy and human rights. This is also an opportunity to reassert the importance of social cohesion as a foundation for the political stability of society. The activities aimed at combating social exclusion and eradicating poverty should be reinforced.

92. Globalisation is not a danger in itself, but one consequence of it is that local or regional problems increasingly have implications for other parts of the world. It is no longer possible to hope to guarantee stability in Europe if the neighbouring regions are not also stable. The Council of Europe's work must necessarily take into account the extra-European dimension of the issues addressed. Along the same lines, an effort should be made to extend the Council of Europe's legal standards beyond its borders, first and foremost to Europe's neighbouring regions (the southern and eastern shores of the Mediterranean, the Middle East and Central Asia), inter alia through conventions and other instruments open to third countries.

93. This is naturally only a small cross-section of the challenges and threats confronting our societies which could usefully be addressed through common action at the level of the Council of Europe. Our task is therefore to ensure that our Organisation's pre-emptive and reactive capacities are fully put to use to serve the interests of our member states and, above all, of the people of Europe.

5. Conclusion

94. The member states have entrusted the Council of Europe with the role of guardian of the values they consider fundamental to European civilisation – democracy, human rights and the rule of law.

95. Over its sixty years of existence, our Organisation has shown itself to be equal to this task. It has succeeded in devising specific standards which transform the fundamental values into binding obligations. Today it has a considerable array of mechanisms that serve to guarantee compliance with these standards.

96. Thanks to the activities of the Council of Europe, the principles of democracy, human rights and the rule of law are now part and parcel of Europeans' daily lives and form the pillars of European unity. However, in our constantly changing societies, these principles are continuously being tested afresh and always need to be redefined, reasserted and protected.

97. This is why the states and citizens of Europe today need a Council of Europe that is watchful, combative and flexible, always ready to defend and consolidate the principles that form the common basis of European societies. The Organisation must draw lessons from the critical analysis of its achievements and its missed opportunities, its strengths and its weaknesses and deficiencies, and continue to adapt itself to the requirements of today's world so as to be equal to its role and serve the people of Europe as best it can. The Council of Europe's action must be supported and reinforced so as to meet the challenges of today and tomorrow.

98. At the same time, it is vital that the Council of Europe, while retaining its specificity, should offer European states which are not destined or do not intend to accede to the European Union an institutional possibility of participating on an equal footing in the process of building a united Europe.

99. In addition, both the European Union and the OSCE make reference in their instruments and activities to the values of democracy, human rights and the rule of law, protection of which is the statutory aim and the *raison d'être* of the Council of Europe.

100. These principles and values naturally do not belong to our Organisation alone. However, the Council of Europe's mechanisms for their effective protection, on the basis of the well-defined, legally binding standards it has developed, and its expertise in this field are unique and serve as a reference in these matters. Weakening this role would seriously harm the existing system for safeguarding these fundamental values and would have consequences for Europe's institutional balance. Our duty is therefore to ensure that the Council of Europe remains equal to its role and true to its vocation as the guardian of democracy, human rights and the rule of law.

Appendix – Conference on: What future for human rights and democracy in Europe? The role of the Council of Europe

Paris, 11 septembre 2009, Assemblée Nationale, Salle Lamartine

Summary of discussions

1. The conference forms part of the programme of activities celebrating the 60th anniversary of the founding of the Council of Europe.
2. 60 years ago, in 1949, Europe was emerging from a world conflict that had its origins on this continent after totalitarian regimes systematically violating citizens' human rights and fundamental freedoms had risen, unchecked, for three decades.
3. There was an urgent need to restore democracy and the rule of law in many of Europe's countries and rebuild the economic and social structures in all of them.
4. The Council of Europe was the fruit of the pledge of "never again", a vow to prevent history repeating itself at all costs and to provide effective safeguards for human rights, democracy and the rule of law. The Council of Europe was born from the clear will to defend and carry strong ethical values which the founding fathers considered as essential for the European and global development.
5. The founding fathers were driven in their enterprise by memories of the horrors experienced, the scale of the destruction confronting them and their determination to build a future firmly anchored in respect for all men and women living on the "old continent" regardless of their ethnic, cultural and religious affiliations, a future capable of providing them with a fulfilling and prosperous life, to strengthen the bonds between individuals and to capitalise on their diversity.
6. Through the years of reconstruction, economic boom and the first oil crisis and its consequences, with a sustained succession of scientific and technological advances unprecedented in the history of humankind, the Council of Europe devised sound, recognised principles in the areas of human rights, whether civil, political, economic, social or cultural rights, democracy and the rule of law.
7. However, for 40 years the values embodied by the Council of Europe were a reality only for the western part of the continent, since post-war Europe was deeply divided into two camps, politically and economically. Internal conflicts in the eastern part of the continent had caused numerous civilian casualties and, under the ensuing regimes, times were dire for human rights in Europe.
8. Also noteworthy were the return of Greece to the Organisation in 1974 and the accession of Portugal and Spain in 1976 and 1977 respectively, after the end of totalitarian regimes which had also resulted from civil wars and enabled an ideology profoundly hostile to human rights and the rule of law to establish itself and gain the upper hand in the cradle of democracy and also in the Iberian peninsula.
9. In 1989, the fall of the Berlin wall, followed by the collapse of the totalitarian regimes in central and eastern Europe and the break-up of the Soviet Union, made it possible to extend the application of the democratic principles on which Council of Europe was founded to the entire continent and set about rebuilding democracy in the countries of central and eastern Europe, as had been the case four decades earlier in the founding states and the others that had joined them.
10. The path was thus open for the enlargement of the Council of Europe to its current 47 member states which covers nearly all the territory of the continent and goes even further by strictly geographical standards. The geographical cover that constitutes an undeniable comparative advantage for the implementation of the norms it elaborates.
11. Nevertheless, the sudden end of the communist regimes in Europe had the further consequence of reawakening old territorial conflicts, masked for nearly half a century by frontiers designed to serve the supremacy of a bloc in a bipolar world. We saw the emergence of territorial conflicts linked to claims of national minorities long suppressed by the established ideology which, in its stated quest for economic and social equality, tolerated no ambitions of independence and diversity.
12. Old demons were unleashed, at a time when Europe was convinced of having honoured its pledge of "never again": Srebrenica, Grozny, Sarajevo or Kosovo³, Nagorno Karabakh and, more recently, South Ossetia have all hit the headlines with stories of horror, destruction, violence and arbitrary acts. The photos from the former Yugoslavia shown in the media bear an uncanny resemblance to those of nazi concentration camps and the bombed-out buildings in Grozny are a chilling reminder of many European cities in 1945.

13. Inevitably, there was soul-searching: where did we go wrong? what was it that we failed to understand or achieve? what should we have done or done differently? and – for the more pessimistic – does Europe still have a meaning?

14. These questions were made more poignant by events which, in the very heart of longstanding democracies, reached the summit of horror: Madrid, Istanbul, London, Beslan. It was not the first time that religion had served as a catalyst for pursuing political aims by violent acts: Northern Ireland in particular had been the scene of killings of innocent victims throughout the 20th century, but now this blind violence had its origins outside the European continent and was therefore perceived as foreign and poorly or not understood. Its immediate effect was to spark or reveal animosity between different ethnic and religious minorities present in European countries. Our societies have been greatly destabilised as a result.

15. The make-up of our societies has been radically changed within a fairly short lapse of time by substantial flows of migrants, following the fall of the Berlin wall for east-west flows and increasing globalisation for south-north flows, throwing down a major challenge for our societies in not only economic, social and political but also cultural terms.

16. It is of paramount importance that Europe – and more specifically the Council of Europe – takes up that challenge because our future and our values are at stake, and even more importantly, the future of young people today and the chances we wish to offer to future generations.

17. As the first decade of the 21st century draws to a close, Europe should remain highly vigilant over respect for human rights, democracy and the rule of law, which are under threat from extremist and totalitarian temptations, stirred by a feeling of insecurity prompted by the great changes experienced by the continent – and the entire planet – in recent decades, pushing individuals and states towards ostracism and xenophobia, withdrawal, the refusal of diversity and rejection of others.

18. An emphatic reminder is required that doctrines advocating hatred, crime, violence and the rejection of others are incompatible with the European project of a peaceful and democratic society, respectful of the fundamental rights and freedoms of everyone.

19. Firstly, there should be emphasis on the importance of sharing the universal common values of human rights, the democratic ideal and the rule of law, values that cannot be waived in the name of distinctive features or specific characteristics resulting from affiliation to a cultural, ethnic group, religious community etc.

20. The sharing of these common values, mutually consented to by all individuals, and not imposed by the state or some other authority, must form the basis of our societies, as a foundation for implementing true democratic citizenship.

21. We should further point out that the feeling of belonging to several cultural traditions at the same time is perfectly compatible with European citizenship and is even an integral of the concept where it hinges on mutual recognition between different cultures and an attachment to shared values.

22. This multiple cultural affiliation can be possible only if our societies and the individuals making them up demonstrate their openness to other cultures and a desire for exchange between them, fostering the rebuilding of social ties, as long as this is underpinned by decent living conditions.

23. In this function of providing the cement and foundations for our societies, the indivisible and complementary nature of human rights comes into its own in building a society that is balanced and inclusive and holds hope for the future, where individuals feel fulfilled, respected and recognised for their contribution. And the same applies to states.

24. These times of economic crisis are especially dangerous for human rights, which some would like to regard as a luxury that Europe can no longer afford, a costly extravagance for affluent societies, which they claim is a burden on competitiveness to the detriment of our economies and supposedly hampers flourishing production. However, such a strictly financial interpretation of the consequences of the economic crisis not only potentially tramples on human rights but also shows forgetfulness of our not-so-distant past and short-sightedness of the dangers it holds for our future.

25. Did the rise to power of extreme right-wing regimes in 1930s Europe not go hand-in-hand with the slump in economic and social conditions in our countries following the great depression? Was the ascendancy, in our societies, of an ideology exalting affiliation to a single ethnic group, to traditions and to a

3. All reference to Kosovo whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

culture of exclusion, closed to diversity, rejecting others because they are different, to the extent of calling for their physical elimination, not fuelled by the despair generated by poverty, distress at a total lack of future prospects and a resulting loss of self-respect, pushing entire peoples to seek refuge in reassuring promises of security offered by the known rather than the unknown and uniformity as opposed to diversity?

26. It is important to prevent history repeating itself. That is why respect for human rights is all the more necessary in times of economic crisis, to head off temptations to drift in other directions, which may have extremely grave consequences for the democratic functioning of our societies by undermining their ability to offer every individual decent living conditions and thereby enable them to feel part of those societies.

27. It must be underlined that the defence of human rights and the interests of the state policy, «Realpolitik», must not be considered as being in opposition but that they reinforce each other mutually. This is not impossible or incoherent but an evidence that the past has already demonstrated on several occasions.

28. Moreover, it is only a reasoned relationship of states and peoples with their common history and their capability to transcend past conflicts that enable us all to live together and envisage reconciliation between yesterday's enemies, and it remains the surest means of preventing new conflicts.

29. It is for the states to create the conditions needed to uphold these common values, and to prevent and condemn acts, regardless of their origins or perpetrators, which run contrary to European designs of tolerance, inclusion, respect for others and openness.

30. To do so, the states should not only adopt a legal framework transposing common values – notably those defined in international and European treaties – to texts at national level but also ensure the independent and impartial functioning of their judicial systems, so that this framework may be applied in the spirit of those very values, guaranteeing effective enjoyment of those fundamental rights for all individuals, through full compliance with the principle of the rule of law.

31. Backing for these common values and standards and concern that they be respected must be central to work on devising national policies in all areas of state action, fostering enrichment of the common base underpinning the emergence of a European democratic citizenship, its development and its adaptation to the big technological, scientific and environmental challenges, and thus enabling Europe and Europeans to blossom both on our continent and on the international scene.

32. In managing the challenge posed by "different" identities to our societies today, our initial precept must be that human rights are universal, to be enjoyed without discrimination by all members of society; in no circumstances may fundamental rights be cast aside for the sake of managing cultural diversity. Quite on the contrary, they must form the basis for it.

33. For these reasons, the Council of Europe has a duty to pursue and assert its role of guardian of these values, not only by developing them in line with its founding design to draw together states and people in respect for diversity, seen as a factor of enrichment, but also by ensuring the effective respect for those values by, and supporting their promotion in, the member states.

34. In particular, the Council of Europe's different mechanisms for monitoring and assessing how member states apply and comply with standards must be capitalised on and the results of their activities must be fully taken into account by the competent national authorities when drawing up and applying their policies.

35. The technical co-operation programmes implemented by the Council of Europe and other international and European institutions with a view to improving national systems for the protection of human rights, democracy and the rule of law must be founded on both the standards devised by the Council of Europe and the activities of its control mechanisms.

36. The Council of Europe must fully play its role in the elaboration of the historical speech on European construction as the centre carrying the values of democracy, freedom and human rights. As such, the Council of Europe constitutes a fundamental element of the development of this historical European dimension.

37. Member states are invited to ensure that their action is fully coherent with the values they say they support, notably taking all possible measures so that these values are fully respected in Europe and elsewhere.

38. Member states must ensure that the Council of Europe has the political means it needs to effectively uphold these principles and to be able to take concrete action if they are infringed. They should also ensure that the Council of Europe has the material, and notably financial, means required to fully carry out its role.

39. The Parliamentary Assembly of the Council of Europe could prepare a report on fundamental values, their relevance and their implementation in current European society; a report which could serve as a basis for a wide debate on this topic.

Reporting Committee: Political Affairs Committee

Reference to Committee: Reference No. 3578 of 28 May 2009

Draft resolution and draft recommendation adopted by the Committee on 10 September 2009

Members of the Committee: Mr Göran **Lindblad** (Chairperson), Mr David **Wilshire** (Vice-Chairperson), Mr Björn Von Sydow (Vice-Chairperson) (alternate: Mrs Kerstin **Lundgren**), Mrs Kristina Ojulang (Vice-Chairperson) (alternate: Mr Andres **Herkel**), Mrs Fátima Aburto Baselga (alternate: Mr Miguel Arias **Cañete**), Mr Francis **Agius**, Mr Alexander Babakov, Mr Viorel Badea (alternate: Mr Ioan **Mang**), Mr Denis Badré, Mr Ryszard **Bender**, Mr Andris **Bērziņš**, Mr Pedrag Bošković, Mr Luc Van den Brande, Mr Mevlüt **Çavuşoğlu**, Mr Lorenzo Cesa, Mr Titus **Corlăţean**, Ms Anna **Čurdová**, Mr Rick **Daems**, Mr Dumitru Diacov, Ms Josette Durrieu, Mr Frank Fahey, Mr Piero **Fassino**, Mr Per-Kristian Foss (alternate: Mr Vidar **Bjørnstad**), Mr György **Frunđa**, Mr Jean-Charles **Gardetto**, Mr Marco Gatti, Mr Charles Goerens, Mr Andreas **Gross**, Mr Michael **Hancock**, Mr Davit Harutiunyan (alternate: Mrs Naira **Zohrabyan**), Mr Joachim Hörster, Mrs Sinikka **Hurskainen**, Mr Tadeusz **Iwiński**, Mr Bakir Izetbegović, Mr Michael Aastrup Jensen, Mr Miloš Jevtić, Mr Emmanouil Kefaloyiannis, Mrs Birgen **Keleş**, Mr Victor Kolesnikov (alternate: Mrs Ohla **Herasym'yuk**), Mr Konstantion **Kosachev**, Mr Jean-Pierre Kucheida, Ms Darja Lavtižar-Bebler, Mr René van der Linden, Mr Dariusz **Lipiński**, Mr Juan Fernando López Aguilar (alternate: Mrs Meritxell **Batet Lamaña**), Mr Younal Loutfi, Mr Gennaro Malgieri, Mr Dick Marty, Mr Frano Matušić, Mr Dragoljub Mićunović, Mr Jean-Claude **Mignon**, Ms Nadezhda Mikhailova, Mr Aydin Mirzazada, Ms Lilja Mósesdóttir, Mr João Bosco **Mota Amaral**, Mrs Olga Nachtmannová, Mr Gebhard **Negele**, Mrs Miroslava Nemcova, Mr Zsolt Németh, Mr Fritz Neugebauer (alternate: Mr Franz-Eduard **Kühnel**), Mr Hryhoriy **Omelchenko**, Mr Theodoros Pangalos, Mr Ivan **Popescu**, Mr Christos **Pourgourides**, Mr John Prescott (alternate: Mr John **Austin**), Mr Gabino **Puche**, Mr Amadeu Rossell Tarradellas, Mr Ilir Rusmali, Mr Oliver Sambevski, Mr Ingo Schmitt (alternate: Mr Eduard **Lintner**), Mr Samad Seyidov, Mr Leonid **Slutsky**, Mr Rainer **Steenblock**, Mr Zoltán **Szabó**, Mr Mehmet **Tekelioğlu**, Mr Han Ten Broeke, Lord Tomlinson (alternate: Mr Rudi **Vis**), Mr Petré Tsiskarishvili (alternate: Mr Guiorgui **Gabashvili**), Mr Mihai Tudose, Mr Ilyas Umakhanov (alternate: Mr Alexander **Pochinok**), Mr José Vera Jardim, Mr Luigi Vitali, Mr Wolfgang Wodarg, Ms Gisela Wurm, Mr Emanuelis **Zingueris**.

Ex-officio: MM. Mátyás **Eörsi**, Tiny **Kox**

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mrs Nachilo, Mr Chevtchenko, Mrs Sirtori-Milner