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## Follow-up to the reform of the Council of Europe

### Report<sup>1</sup>

Committee on Political Affairs and Democracy

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### Summary

The report recalls the commitment of the Parliamentary Assembly to a politically relevant and effective Council of Europe. The Assembly had already welcomed the intention of the Secretary General to reform the Organisation in order to make it more political, more flexible and more geared to the needs of European citizens. This report indicates a number of lines along which these aims should be pursued.

As the second phase of the reform, which is being prepared now, should cover strategic aims for the forthcoming decade, the report stresses that the Assembly should be fully informed and consulted on the political decisions to be taken. The Council of Europe must remain the privileged framework for political co-operation in a greater Europe in dealing with problems which threaten the cohesion and stability of society.

While supporting the goal of making the Council of Europe a more efficient instrument capable of providing practical answers to member states, the report expresses concern at the decline in member states' commitment to the Organisation. It suggests holding a Council of Europe summit in order to give it fresh political impetus, make member states more responsible towards the Organisation and, if need be, redefine its role.

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1. 2011 - First part-session



## A. Draft resolution<sup>2</sup>

1. The Parliamentary Assembly declares its commitment to a relevant and effective Council of Europe as a natural guarantor of “soft security” in a Europe based on the fundamental values and principles of democracy, respect for human rights and the rule of law. It regards the Council of Europe as the institution which sets reference standards and as the privileged framework for political co-operation in a Greater Europe in the context of achieving greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress.
2. The Assembly welcomes the fact that a group of eminent personalities has started a series of discussions on the modern understanding of European identity and values in the framework of a long-term strategy for the Council of Europe.
3. In its [Opinion 279 \(2010\)](#) on the budgets and priorities of the Council of Europe, the Assembly expressed its support for the first wave of measures introduced by the Secretary General of the Council of Europe to reform the Organisation, revitalise it and make it more political, more flexible and more geared to the needs of European citizens.
4. The Assembly now awaits the Secretary General’s proposals for the second phase of reform, which should cover strategic aims for the forthcoming decade. As a statutory organ vested, together with the Committee of Ministers, with overall responsibility for the future of the Council of Europe, the Assembly expects to be fully informed and consulted on the political decisions which he intends to propose.
5. The decline in member states’ commitment to the Council of Europe is worrying. It is being reflected in, *inter alia*, a persistent refusal by the Committee of Ministers to give the Organisation a budget commensurate with its tasks, whereas parallel structures duplicating the Council of Europe’s mechanisms and instruments are being generously funded within the European Union.
6. In this context, the Assembly considers that a Council of Europe Summit should be held to give the Organisation fresh political impetus, make its member states more responsible towards it and, if need be, redefine its current role.
7. While welcoming the decision by the Committee of Ministers to move to a biennial budgetary process, the Assembly can only express its regret again that the Council of Europe’s budgetary crisis is forcing the Organisation to reduce its operational activities intended to help member states to implement reforms and to comply with their commitments and obligations. It fears that the growing imbalance between convention-based and operational activities will further aggravate the downward trend in the Council of Europe’s political relevance that the reform is intended to inverse. The Assembly is convinced that the Organisation needs to change the way it works and to offer operational responses to member states’ needs as one of the fundamental challenges for the reform process. In this context, it asks member states to reinvest in the Organisation’s activities the savings achieved on its functioning thanks to reform.
8. The Assembly supports the reform started by the Secretary General. It believes that the reform should not result in a further reduction in the fields of competence and the political role of the Council of Europe, restricting it to purely technical functions and to a subordinate position. It also believes that, in this context, a stable democracy which respects human rights is inconceivable without culture, education and social cohesion and cannot ignore the problems related to migration, as the Strasbourg Declaration on Roma has recently shown. The three core pillars (democracy, human rights and the rule of law) must therefore reflect this approach. This does not, however, mean that the Council of Europe should not concentrate the necessarily limited resources at its disposal on subjects deemed to be matters of political priority.
9. The Assembly commits itself to exploring all possibilities for reforming its own methods and procedures and, in so doing, contributing to the broader reform process.
10. The Assembly also underlines the crucial role of the Council of Europe in fostering the common pan-European legal space through the promotion of legally binding instruments. The Assembly considers that the Council of Europe must remain the preferred place for dialogue between the authorities and between people at European level as well as an important pan-European forum for analysis and anticipation of destabilising tendencies which jeopardise the cohesion of society, for the sharing of national experience, for the establishment of standards, for enhancing universal values, for the dissemination of good practices and for the search for common answers to the problems which concern Europe as a whole. It should also continue to play a privileged role in the dialogue with neighbouring states.

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2. Draft resolution adopted unanimously by the committee on 15 December 2010.

11. The Assembly supports the Secretary General's objective of making the Council of Europe a more efficient instrument capable of transforming its potential into operational decisions and providing practical and speedy answers to member states on the challenges facing them. To this end, it declares itself in favour of:

11.1. greater synergy between the Organisation's organs, institutions and mechanisms;

11.2. a functional grouping together of the structures which support the various monitoring and steering mechanisms set up in the context of Council of Europe conventions, in order to make them more effective.

12. The increasing congestion at the European Court of Human Rights, jeopardising the continuity of the European justice system in the field of human rights protection, is a subject of great concern to the Assembly. It is following the Interlaken Process closely and is preparing to make its contribution towards finding courageous political solutions. In this context, the Assembly:

12.1. points out that the situation at the Court is a consequence of the systemic problems of member states' domestic justice systems, and that the main effort should therefore relate to remedying the deficiencies of national justice mechanisms; it therefore calls for efforts to be made in synergy by the Committee of Ministers and the Assembly, so as to strengthen assistance programmes targeted on those member states which are the source of the greatest numbers of applications to the Court;

12.2. takes note of the introduction by the Committee of Ministers of a mechanism for prior assessment of the candidates for the position of judge by a panel of experts, before a national list is forwarded to the Assembly. In turn, it resolves to consolidate its own procedure for the election of judges, particularly with a view to the accession of the European Union to the European Convention on Human Rights.

13. Despite the current reform process, the structures of the Congress of Local and Regional Authorities of the Council of Europe remain excessively heavy. Its activities and working methods need to be thoroughly reviewed. In particular, the Assembly believes that:

13.1. the reform of the Congress must be in line with the objectives of the overall reform of the Council of Europe. In particular, it must allow better co-ordination and coherence between the activities of the Congress and other organs and bodies of the Council;

13.2. Congress activities should represent an added value for the Council of Europe and practical usefulness for the local and regional authorities of the member states, and avoid duplicating the work done in other bodies;

13.3. the current practice whereby members of the Congress participate in its activities at the Council of Europe's expense is difficult to justify and should be stopped.

14. The Assembly takes note that discussions are in progress about the holding of conferences of specialised ministers of the Council of Europe. In this context:

14.1. it reiterates its belief that specialised ministers, who are directly dealing with large numbers of societal problems, should play a more active role in defining the priorities of the Council of Europe. The conferences must above all meet a real political need;

14.2. it believes that the idea of organising sessions of the Committee of Ministers at the level of specialised ministers merits an in-depth examination;

14.3. it resolves to invite, when appropriate, specialised ministers of member states of the Council of Europe to address plenary sittings.

15. In the context of the consideration of the reform of the Forum for the Future of Democracy, the Assembly wishes to reiterate its proposal concerning the need to strengthen the Council of Europe's Democracy pillar by grouping together the various relevant activities on this subject within a "Strasbourg Democracy Forum", as a generic structure. It also expresses the wish that a new Youth Parliament might be convened in Strasbourg in that framework.

16. The Assembly draws attention to the need for the Council of Europe to ensure synergy between decision-makers at the highest level, citizens and civil society.

17. The entry into force of the Lisbon Treaty has brought new opportunities for strengthening the partnership between the Council of Europe and the European Union, and has opened up the prospect of accession by the European Union to the European Convention on Human Rights, as well as to other Council of Europe conventions and mechanisms. In this context, the Assembly:

17.1. strongly encourages the European Union to take full advantage of these opportunities so as to move towards a truly united Europe on the basis of the same values and drawing on the same standards;

17.2. suggests that a detailed study be conducted on the division of competences between the Council of Europe and the European Union, as well as other major European organisations;

17.3. emphasises that a veritable strategic partnership between the European Union and the Council of Europe should be an important element of the latter's reform and calls on the Secretary General to work to this end;

17.4. for its part, resolves to increase substantially its co-operation with the European Parliament, *inter alia* through the informal joint European Parliament/Parliamentary Assembly body which is to be established to co-ordinate the communication of information, particularly in the context of the accession of the European Union to the European Convention on Human Rights;

17.5. emphasises the benefits which may also come from closer relations between the political groups of the two European parliamentary assemblies.

18. The Assembly reiterates its firm intention to follow closely the next phases of the Organisation's reform and to make an even greater contribution, through all its activities, to ensuring that the Council of Europe remains a reference institution in its fundamental fields of competence and a driving force for multidimensional pan-European co-operation in other sectors of its activities.

19. The Assembly resolves to make a periodical and detailed examination of the Council of Europe's activities and programmes in order to assess their political relevance, and requests to be consulted on the choice of priorities as well as on decisions not to renew certain activities.

## B. Draft recommendation<sup>3</sup>

1. The Parliamentary Assembly reaffirms its commitment to a politically relevant and effective Council of Europe as a natural guarantor of “soft security” in a Europe based on the fundamental values and principles of democracy, respect for human rights and the rule of law. It supports the reform started by the Secretary General, which is intended to revitalise the Council of Europe and make it more political, more flexible and more geared to the needs of Europeans.

2. In a spirit of a strengthened dialogue between the two statutory organs of the Council of Europe, the Assembly is keen to share with the Committee of Ministers the ideas, concerns and proposals contained in its Resolution ... (2011) on follow-up to the reform of the Council of Europe. In this context, it urges the Committee of Ministers, *inter alia*, to:

2.1. engage in joint discussion with the Assembly on the need to hold a Council of Europe Summit to give the Organisation fresh political impetus, make its member states more responsible towards it and, if need be, redefine its current role;

2.2. give thought to the proposals on a grouping together of the structures which support monitoring mechanisms and on the Congress of Local and Regional Authorities contained in its Resolution ... (2011) on follow-up to the reform of the Council of Europe;

2.3. ensure, within the Council of Europe, synergy between decision-makers, citizens and civil society;

2.4. take account of its previous proposals with a view to the setting up of a “Strasbourg Democracy Forum”, as a generic structure grouping together the various relevant activities on this subject, so as to consolidate and make more visible the Council of Europe’s Democracy pillar;

2.5. increase the scope of the Council of Europe conferences of specialised ministers, strengthen their link with and impact on the Organisation’s day-to-day activities;

2.6. examine the idea of organising sessions of the Committee of Ministers at the level of specialised ministers;

2.7. consider the possibility for the specialised ministries to contribute to the financing of certain Council of Europe activities in exchange for some of the Committee of Ministers’ powers being delegated to them, notably with regard to the choice of priorities for the Council of Europe’s intergovernmental activities, as proposed in Committee of Ministers’ Resolution (89) 40 on the future role of the Council of Europe in European construction;

2.8. call on member states to reinvest in the Organisation’s activities the savings achieved on its functioning thanks to reform, in order to help member states to implement reforms and comply with their commitments and obligations.

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3. Draft recommendation adopted unanimously by the committee on 15 December 2010.

## C. Explanatory memorandum by Mr Mignon, rapporteur

### 1. Origin and aim of the report

1. On 1 October 2009, the Assembly adopted [Resolution 1689 \(2009\)](#) and [Recommendation 1886 \(2009\)](#) on the future of the Council of Europe in the light of its sixty years of experience, which were intended to provide some food for thought about the changing role of the Council of Europe, to identify problems in its functioning and to suggest measures to be taken 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 thereby helps to guarantee the effective promotion and protection of these principles and values.
2. On 29 September 2009, the Assembly elected Mr Thorbjørn Jagland as the new Secretary General of the Council of Europe. Throughout his election campaign, Mr Jagland had emphasised the need to reform the Organisation in order to make it more flexible and more appropriate to current challenges.
3. It is quite natural that the Assembly, which has itself given thought to ways of making the Council of Europe more relevant and effective, wishes to follow the reform process initiated by the Secretary General, and to make a contribution to it.
4. I therefore tabled a motion for a resolution entitled “Follow-up to the reform of the Council of Europe”, which led to the decision to have the present report drafted, my twofold aim being to keep colleagues informed about the progress of the Secretary General’s reform and to give the Assembly an opportunity to express its views and exercise its influence on the political decisions to be made during this process.
5. In my view, it is not our Assembly’s role to scrutinise every last detail of issues relating to the day-to-day functioning of the Council of Europe. On the other hand, it rightly feels concerned when the intention is to define the Organisation’s strategic objectives for the years ahead.
6. I should like to point out that, when he first outlined to the Assembly his programme for change, on 25 January 2010, the Secretary General emphasised the political nature of the reform process. As one of the Council of Europe’s two statutory organs, the Assembly is, like the Committee of Ministers, vested with overall responsibility for the Organisation’s future. It is therefore vital for the Assembly to be consulted and allowed to contribute when political decisions are to be taken which will affect that future. Like most of my fellow members of the Assembly, I am resolutely in favour of reform of the Council of Europe and resolutely opposed to a reduction in our Organisation’s political role.

### 2. Moving towards the second phase of reform

7. In January 2010, the Secretary General began the first stage of the reform process, the main aims of which were stated to be:
  - to revitalise the Council of Europe as a political body and an innovative organisation;
  - to concentrate its work on fewer projects, selected on the highest added value and comparative advantages;
  - to develop a flexible organisation that is also more visible and relevant for the citizens of Europe.
8. The first stage of reform entailed measures for immediate implementation, mainly relating to priority needs connected with internal governance and operational measures, such as reform of the budget process and format, initial measures to rationalise the programme of activities, the introduction of a new concept for the Council of Europe’s external presence, the treatment of financial questions and the control of pay costs.
9. The Assembly examined this first wave of measures in [Opinion 279 \(2010\)](#) on the budgets and priorities of the Council of Europe for the 2011 financial year (on the basis of a report by the Committee on Economic Affairs and Development). It expressed its support for the process begun by the Secretary General and called for a political strategy that would give the Organisation a new ambition.
10. At the same time, the Secretary General set up within the Council of Europe Secretariat the “Agenda 2020 Group”, a think tank tasked with preparing for the second phase of reform, which should cover matters relating to the Organisation’s strategic position vis-à-vis the major present and future challenges.

11. The work of the Agenda 2020 Group is not public. I have, however, been able to discuss its main lines with its chairperson, Mr Gérard Stoudmann, the Special Representative of the Secretary General for Organisational Development and Reform, and to have access to some of the ideas under discussion in the group. Mr Stoudmann also represented the Secretary General, who had been invited to participate in an exchange of views with the committee, at our meeting in Paris on 18 November 2010. On that occasion, he set out the main lines of the discussion under way in preparation for the second phase of the reform.

12. The Agenda 2020 Group, composed of the main senior officials of the Secretariat's structural units, bases its work on that of the 15 Task Forces which are active in four Change Workshops:

- Priorities/Programme/Budget (Task Forces on Transversality; Convention Review; Monitoring; Evaluation);
- Relations with the European Union (Task Forces on Standard-Setting and Monitoring; European Union in Council of Europe Structures; Council of Europe in the European Union's External Policies; a new strategic partnership);
- Competitiveness (Task Forces on External Presence; Civil Society; External Funding; Communication);
- Strategy for Internal Excellence (Task Forces on Human Capital; Fighting Red Tape; Intergovernmental Structures).

13. The Group is pursuing a threefold aim:

- to define priorities for 2010-2020;
- to define priorities for the 2012-2013 programme of activities;
- to co-ordinate and present the recommendations drawn up by the 15 Task Forces.

14. According to the information obtained, the following should be taken into account where the strategic objectives for the decade are concerned:

- establishment by 2020 of a common pan-European platform of norms and standards;
- meeting through practical projects of the societal challenges arising, particularly including the growing risks of loss of cohesion and radicalisation;
- use of the Council of Europe as a forum for the discussion of current affairs relevant to the Organisation's remit.

15. The following would be the main priorities to be adopted when the 2012-2013 programme of activities is defined:

- establishment of a biennial budget from 2012 onwards, accompanied by a detailed review of the intergovernmental programme of activities, in future linked to the two-year budgetary cycle;
- a focus on the priorities to be defined, with a reduction in the overall number of programmes;
- establishment of a new framework for co-operation with the European Union;
- adoption of a transversal approach whenever possible, especially where working methods are concerned (project groups, task forces).

16. According to the latest information, the four Change Workshops have forwarded their recommendations to the Agenda 2020 Group, which is now examining and finalising them. The Agenda 2020 Group's proposals should serve as a basis for the second phase of reform, which the Secretary General plans to present at the beginning of 2011.

### **3. Major challenges to be met**

17. The exchange of views with the Special Representative of the Secretary General which took place on 18 November 2010 gave members of the committee an opportunity, on the one hand, to obtain general information about the reform process and, on the other hand, to inform him of Assembly members' observations and concerns. But at the time of writing this report, we do not yet have precise information about what the second phase of reform will entail. I cannot therefore comment on the substance of that phase! However, it is clear that this new phase will have to go much further than a mere improvement of working methods, and will entail political decisions and a redefinition of the role of the Council of Europe so as to restore it as a priority on the European political agenda. I therefore feel that it would be useful at this stage to

point to certain challenges and to reconsider certain ideas – including those expressed by my colleagues on the committee – which need to be taken into account if the Council of Europe is to become more effective and operational.

18. These challenges are not new, and a good many of them have already been set out in [Resolution 1689 \(2009\)](#) and [Recommendation 1886 \(2009\)](#), and in a number of other relevant Assembly texts. I have to say that too little progress has been made – and probably too little will be shown – in the search for ways of dealing with these problems.

### **3.1. Decline in member states' commitment**

19. The Assembly, in [Resolution 1689 \(2009\)](#), expressed concern about some tendencies which could indicate a decline in member states' commitment to the Council of Europe (such as the low level of participation by ministers in ministerial sessions of the Committee of Ministers; the zero growth of the budget in real terms; member states' reluctance to accede to legal instruments; attempts to minimise the importance of monitoring mechanisms, or even to call them into question).

20. Notwithstanding solemn declarations, these tendencies have not been reversed. Of course, the Organisation needs to change the way it works and offer operational responses to member states' needs – and this is one of the fundamental challenges for the reform process. It is nevertheless the case that, without strong support from its states, the Council of Europe has little chance of meeting their expectations and will have to curtail its activities even further. This disengagement is all the more difficult to understand because it coincides with the multiplication, in our states, of dangerous and destabilising tendencies which threaten the cohesion of society and which manifest themselves as much within the European Union as in the countries which are outside of it. The Council of Europe, with its analytical and anticipatory capacities, is the preferred framework for sharing national experience and preparing joint responses to problems which, albeit in different forms, concern Europe as a whole.

21. The Secretary General's proposal to use the Partial Agreement formula to enable interested states to continue co-operation in certain specific fields deserves to be given attention. Care should nevertheless be taken not to break the Council of Europe up any further and to avoid transforming it into a loosely linked network of isolated pockets of activity. Quite the contrary, greater synergy between the Council of Europe's organs, institutions and mechanisms is essential in order to respond effectively to the challenges facing society and to member states' needs.

22. The Secretary General's recent initiative on Roma could serve as an example of speedy mobilisation of the expertise and intellectual resources available within the Council of Europe, on the one hand, and of the political will of member states, on the other, in the face of an urgent situation.

23. The success of such initiatives will depend on the Organisation's ability to translate its potential into operational decisions and to provide practical solutions useful to member states. In order to be able to mobilise them, however, the Council of Europe needs to continue to have available sufficient funds, intellectual resources and a recognised degree of expertise.

24. The greatest caution is therefore required when consideration is given to ending any activity. However, once an activity proves to be no longer of interest, there should be no hesitation about putting an end to it, even if that may call into question certain established situations. That said, a decision to discontinue activities is, by its very nature, a political one, and I believe that the Assembly should be consulted. In this respect, the motion for a resolution tabled by Mr Konečný and other colleagues, entitled "Broadening the Parliamentary Assembly activities: scrutinising of Council of Europe's activities" ([Doc. 12324](#)), which proposes periodical scrutiny by the Assembly of the Council of Europe's activities and programmes, deserves to be studied closely.

25. I should also like to draw your attention to two proposals made by the Assembly in its report on the future of the Council of Europe in the light of its sixty years of experience. The first is the regular holding of summits, which would enable the necessary impetus to be given to the Organisation and a high degree of responsibility for states as regards their commitments to be maintained. In the present situation, in which the discrepancy between solemn declarations and effective acts is so obvious, and in which discussion of a possible redefinition of the Council of Europe's role is on the agenda, this possibility should be given serious consideration.

26. The Assembly also declared itself to be in favour of enhancing the role of conferences of specialised ministers and their impact on the Organisation's everyday activities. The second proposal is that consideration be given to arrangements enabling member states' different specialised ministries to be involved in the choice

of priorities for intergovernmental activities and contribute to the funding of certain Council of Europe activities. This last aspect is not negligible in the current budgetary situation to which I refer below. I feel that this idea is of great relevance in the context of the Secretary General's wish to make the Council of Europe more operational, with a focus on solving practical problems in the interest of member states. Furthermore, the Assembly should more frequently invite specialised ministers to address its members to make them more aware of the actual problems facing society, and also as part of their duty to report back at European level.

### **3.2. General vocation or a new focus on the three pillars?**

27. It is not the first time that we have had to face up to a dilemma about the Council of Europe's vocation: should we limit our activities to the three fundamental pillars, namely democracy, human rights and the rule of law, or should we continue to regard our Organisation as a broader framework for co-operation?

28. It has to be acknowledged that there is no consensus on this matter either among member states or within the Assembly. The states which are members of the European Union and those which have embarked on the process of becoming European Union members tend to favour the Union framework for their projects relating to European co-operation and integration.

29. A debate is taking place between those who would like to reduce Council of Europe activities to the monitoring of the commitments of the countries which are not members of the European Union in the fields relating to the three aforementioned pillars and those who emphasise the importance of culture, education and social cohesion. In many respects, this is the wrong debate. What would a democracy be without culture and without social cohesion?

30. Let us be realistic: a good proportion of the 20 Council of Europe states which are not members of the European Union will, for many more years, and possibly for ever, remain outside the Union. They will nevertheless have to face up to societal problems which go beyond national borders and therefore require international and European co-operation. The presence of these countries in the Council of Europe is a major asset for our Organisation, and their role in our activities is destined to grow.

31. On this point I share the view of the Secretary General that there is a need in Europe, alongside NATO, which deals with "hard security" issues, and the European Union, which is developing a far-reaching integration project, for a forum which ensures "soft security" based on respect for common values, enabling every part of Europe to co-operate on solving problems which affect all our countries and extend beyond the borders of the 27-member Union, and also to participate on an equal footing in the building of a common European legal and cultural area, in other words a greater Europe without dividing lines. Europe was divided for too long to allow itself to be divided again!

32. Of course, the main emphasis must remain on our Organisation's priority fields: upholding its fundamental values and principles, on which European unity is based. In this context, how can we fail to wonder why the European Union's member states have given it parallel structures which duplicate the Council of Europe's mechanisms and instruments, thereby compromising this unity?

### **3.3. Budgetary problems**

33. We have noted the new, more readable, formula for presentation of the Council of Europe budget introduced by the Secretary General. Also to be welcomed is the decision taken by the Committee of Ministers on 23 November 2010 to move to a biennial budgetary process – something that the Assembly has been recommending for several years. The fact remains, however, that the Organisation is in a dramatic budgetary situation which jeopardises its very existence. Leaving aside the costs connected with the functioning of organs and institutions (such as the Court, the Parliamentary Assembly, the Congress, etc.), two thirds of the remaining budget is allocated to various monitoring mechanisms, and only one third to operational activities, these latter very much depending on external extra-budgetary funding.

34. In [Recommendation 1886 \(2009\)](#), the Assembly urged the Committee of Ministers to "review the Council of Europe's budgetary strategy in order to provide it with the resources it needs to carry out its tasks".

35. We are perfectly well aware of the current context of a crisis affecting our member states, making this question even more difficult. We nevertheless maintain that the Council of Europe's budgetary situation is not acceptable, and certain strategic decisions on budgetary matters should be reviewed. The Assembly has said so in its opinions on several occasions.

36. The budgetary problem is a consequence of political decisions and is, in turn, becoming a political problem. Member states' refusal to review the Council of Europe's "zero growth budget" policy, while at the same time spending increasing amounts on other institutions (including for the setting up of parallel mechanisms and structures duplicating those of the Council of Europe) eloquently demonstrates those states' lack of genuine commitment to our Organisation and to the values that it defends.

37. Without sufficient funding for operational activities, the Organisation lacks the means to help member states to honour their commitments and obligations. Taking the Court as an example, it is clear that it is not enough to accede to a convention; states must be helped to comply with it. At the same time, the increasing amount of extra-budgetary funding undermines the Organisation's activity, as well as having consequences for the selection of priorities. Finally, it is a shame that the Organisation's officials, instead of devoting themselves to substantive political work in the interest of Europeans, are reduced to chasing funding to save the remaining programmes!

38. Of course, the Council of Europe's budgetary management can and must be improved. It is therefore probably desirable for a study to be made of the possibility of mutual use of certain monitoring mechanisms. However, the Committee of Ministers must face up to its responsibilities and give the Organisation a budget more appropriate to its role. In this context, it is regrettable that, in contrast with previous practice whereby the budgetary balance was reinjected into activities, member states now ask for savings made on the functioning of the Council of Europe to be repaid to them. Regarding the Organisation solely in terms of bookkeeping blatantly contradicts the attachment to its political role that our member states proclaim, and leaves its future in jeopardy. Such a policy is also demotivating for the Council of Europe, since it deprives it of all the benefit of the improvements which could be made to its management.

39. At the present time, several states' contributions to the Council of Europe budget do not even cover the salaries of their judges in the European Court of Human Rights. This situation is unacceptable.

#### **3.4. Rationalising activities**

40. In the dramatic budgetary situation to which I have already referred, it is not surprising that there is a need to make a critical assessment of the Organisation's activities and to seek to avoid all wastage and duplication. I shall confine myself here to two fields in which, in my opinion, there is food for thought.

41. Should there not to be a grouping together of the structures which support the various monitoring and steering mechanisms (committees, secretariats, etc. ...) which exist in the Council of Europe in the context of its conventions, the number of which is constantly rising?

42. Furthermore, could there not be a review of the functioning of the Congress of Local and Regional Authorities of the Council of Europe, several of whose activities duplicate the work of our Assembly, and whose members, meeting in two Chambers, attend sessions at the Council of Europe's expense, whereas the members of our Assembly attend sessions at their parliaments' expense?

#### **3.5. Reform of the Human Rights Convention and Court system**

43. I draw attention to the fact that this issue is the subject of a report currently being prepared by the Assembly's Committee on Legal Affairs and Human Rights (rapporteur: Mrs Bemelmans-Videc), and that the specific responsibilities of each of the committees should therefore be respected.

44. However, without wishing to anticipate our colleagues' conclusions, it is difficult to avoid noting that, bearing in mind the seriousness of the Court's problems, it is the survival of the European justice system in the field of human rights protection that is at stake. The Court, even with its considerably increased staff, is unable to keep pace with the growing numbers of applications. Even with the entry into force of Protocol No. 14, which will have a positive effect which is not negligible, the tendency remains negative and the congestion at the Court is steadily increasing. It is clear that it cannot remedy every injustice committed (or thought to have been committed) by the authorities of member states – and this was never intended to be its role. Some brave decisions are therefore needed in the framework of the Interlaken Process. A "technical" approach will be unable to solve an eminently political problem, almost 80% of applications coming from 10 states.

45. The Court's real difficulties, in fact, stem from the weakness of member states' domestic courts, the absence or inadequacy of effective remedies, the problems in respect of the enforcement of judicial decisions, including the judgments of the Court, and so on. The main effort should therefore be devoted to rectifying the systemic shortcomings of national justice mechanisms, the only way of restoring the individual's confidence.

This task lies outside the powers of the Court and requires efforts to be made in synergy by the Committee of Ministers and the Assembly, as well as carefully targeted and made-to-measure assistance programmes. At the same time, let us be lucid: where are the budgets making it possible to fund the assistance necessary for upgrading? When it is not a budgetary matter, what is to be done? National parliaments should play a far more active role.

46. At the same time, it is clear that the previous practice of increasing the Court's budget by making budget cuts in other Council of Europe sectors was counter-productive and has been taken as far as it can go. The Secretary General's decision to put an end to budgetary transfers to the Court to the detriment of the other activities of the Council of Europe is fully justified. Furthermore, there is nothing to prevent the Court, like the rest of the Organisation, from giving thought to optimising its management, which would be facilitated through the obtaining of greater administrative and budgetary autonomy.

47. I cannot allow myself to leave unmentioned here the problem of the election of the Court's judges. We note the introduction by the Committee of Ministers of a mechanism for prior assessment of the candidates for judges' posts by a panel of experts, before a national list is forwarded to the Assembly. It remains to be seen whether this innovation will make it possible to ensure that candidates are of a very high quality – which is crucial to the Court's authority, particularly with a view to the accession of the European Union. This being so, I, like several of my colleagues, am convinced that a critical eye will also have to be cast on the procedure whereby the Assembly itself assesses and elects candidates.

### **3.6. Strengthening the democracy pillar**

48. Attention should be drawn to the Assembly's idea that Council of Europe activities relating to democracy should be stepped up, have greater synergy and be better highlighted. The aim would be to set up, on the basis of various mechanisms and bodies in this field, such as the annual Forum 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 Council of Europe's Schools of Political Studies Network, a veritable laboratory of ideas and expertise, which could become a hub of excellence and a reference point with a high international profile. This proposal was reiterated in [Recommendation 1928 \(2010\)](#) on democracy in Europe: crisis and perspectives.

49. Bearing in mind the current discussion of the role and future activities of the Forum for the Future of Democracy, as well as the interest in the Assembly's idea shown by the City of Strasbourg authorities, it would be perfectly appropriate to revive this idea so as to give it tangible substance in 2012, the year in which the next biennial debate on the state of democracy in Europe will take place.

### **3.7. Conventions**

50. It is a welcome development that the Secretary General has taken up the idea of strengthening the Council of Europe's system of conventions by drawing up an inventory of all the conventions in order to optimise their implementation – as the Assembly has been proposing for several years now. I refer specifically to [Resolution 1732 \(2010\)](#) on reinforcing the effectiveness of Council of Europe treaty law (report by Mr Prescott, Committee on Legal Affairs and Human Rights).

### **3.8. Partnership with the European Union**

51. The entry into force of the Lisbon Treaty has brought new opportunities for strengthening the partnership between the Council of Europe and the European Union, and has opened up the prospect of the accession of the European Union to the European Convention on Human Rights, as well as to other Council of Europe conventions and mechanisms. Negotiations on European Union accession to the Convention are already under way.

52. How can this new situation be put to the best possible use? The Assembly is currently continuing to give thought to this question (reports by Mrs Lundgren on the impact of the Lisbon Treaty on the Council of Europe, for the Political Affairs Committee, and by Mr Holovaty on accession of the European Union to the European Convention on Human Rights: Election of judges, for the Committee on Legal Affairs and Human Rights).

53. It is also the Assembly's intention to substantially strengthen its partnership with the European Parliament. The decision by the Bureau of the Assembly in favour of the establishment of an informal joint European Parliament/Parliamentary Assembly body to co-ordinate the sharing of information relating to the accession of the European Union to the European Convention on Human Rights is one step towards this aim.

In addition, the Political Affairs Committee and Committee on Legal Affairs and Human Rights are developing ever closer relations with the Subcommittee on Human Rights of the Committee on Foreign Affairs of the European Parliament on a number of issues of common interest ranging from the consequences of the entry into force of the Lisbon Treaty to matters relating to the political situation and human rights in the Balkans.

54. We also note the new arrangements for co-operation in respect of the funding of activities in the framework of the Eastern Partnership in the form of a “global allocation” (facility) which should enable the Council of Europe to be more flexible in its action and to affirm its priorities, defined in the light of our member states’ needs. I emphasise the need for a true partnership in deciding on these priorities, one which goes well beyond the subcontracting relationships that we have seen in the past.

#### **4. Parliamentary Assembly: coming up with ideas and playing a part in change**

55. Reform of the Assembly itself will be the subject of a specific report which I have been asked to write as a member of the ad hoc committee set up by the Bureau. It therefore seems inappropriate to anticipate that committee’s discussions.

56. I shall confine myself to saying here that a move must be made towards a more political and more reactive Assembly which continues to play its role as a producer of ideas for the future, while giving greater attention to following up the implementation of its ideas and positions. The Assembly must be in the vanguard of the reform, and we, as members of national parliaments, have a particular responsibility to provide political support for this process.

#### **5. Conclusions**

57. Reform of the Council of Europe has become a necessity. It is now entering a phase in which major political decisions will have to be taken.

58. The Secretary General has set ambitious objectives so that the Council of Europe can continue to fulfil its role and meet the challenges of a changing society. In order to attain these objectives, however, the determination which it has displayed and the powers that it holds will not be enough.

59. Strong political will from the member states is essential. The Secretary General’s role is to bring that political will into play. The Assembly should be ready to support his efforts. But it could be a true ally for the Secretary General only if it feels fully involved in the definition of the strategic objectives of the reform.

60. In this context, I consider that a Council of Europe summit should be held to give the Organisation fresh political impetus, make its member states more responsible towards it and, if need be, redefine its current role.

61. The Assembly should support the Secretary General’s objective of making the Council of Europe a more efficient instrument capable of transforming its potential into operational decisions and providing practical and speedy answers to member states on the challenges facing them. To this end, I would propose greater synergy between the Organisation’s organs, institutions and mechanisms, as well as a functional grouping together of the structures which support the various monitoring and steering mechanisms which exist in the context of Council of Europe conventions.

62. The increasing congestion at the European Court of Human Rights, jeopardising the continuity of the European justice system in the field of human rights protection, is another subject of great concern to the Assembly. It is following the Interlaken Process closely and is preparing to make its contribution towards finding courageous political solutions. In this context, it should not be forgotten that the situation at the Court is a consequence of the systemic problems of member states’ domestic courts, and that the main effort should therefore relate to remedying the deficiencies of national justice mechanisms. The Assembly should therefore call for efforts to be made in synergy with the Committee of Ministers, so as to strengthen assistance programmes targeted on those member states which are the source of the greatest numbers of applications to the Court. While noting the introduction by the Committee of Ministers of a mechanism for prior assessment of the candidates for the position of judge by a panel of experts, before a national list is forwarded to the Assembly, the Assembly should, in turn, resolve to consolidate its own procedure for the election of judges, particularly with a view to the accession of the European Union to the European Convention on Human Rights.

63. Despite the current reform process, the structures of the Congress of Local and Regional Authorities of the Council of Europe remain excessively heavy. In my view, its activities and working methods need to be thoroughly reviewed. In particular, Congress activities should represent an added value for the Council of

Europe and practical usefulness for the local and regional authorities of the member states, and avoid duplicating the other bodies' work. Furthermore, the current practice whereby members of the Congress participate in its activities at the Council of Europe's expense is difficult to justify and should be stopped.

64. As far as the holding of conferences of specialised ministers of the Council of Europe is concerned, I reiterate my belief that specialised ministers, who are directly acquainted with large numbers of societal problems, should play a more active role in defining the priorities of the Council of Europe. In addition, the Assembly should, when this is appropriate, invite specialised ministers of member states of the Council of Europe to address plenary sittings.

65. I also wish to reiterate my proposal concerning the need to strengthen the Council of Europe's Democracy pillar by grouping together the various relevant activities on this subject within a "Strasbourg Democracy Forum", as a generic structure.

66. The entry into force of the Lisbon Treaty has brought new opportunities for strengthening the partnership between the Council of Europe and the European Union, and has opened up the prospect of accession by the European Union to the European Convention on Human Rights, as well as to other Council of Europe conventions and mechanisms. In this context, the Assembly should strongly encourage the European Union to take full advantage of these opportunities so as to move towards a truly united Europe on the basis of the same values and drawing on the same standards. A veritable strategic partnership between the European Union and the Council of Europe should be one of the main aims of the latter's reform, and the Assembly should call on the Secretary General of the Council of Europe to work to this end. For its part, the Assembly should substantially increase its co-operation with the European Parliament, *inter alia* through the informal joint European Parliament/Parliamentary Assembly body which is to be established to co-ordinate the communication of information, particularly in the context of the accession of the European Union to the European Convention on Human Rights. I also emphasise the benefits which may also come from closer relations between the political groups of the two European parliamentary assemblies.

67. It is my firm conviction that the Assembly should follow closely the next phases of the Organisation's reform and make an even greater contribution, through all its activities, to ensuring that the Council of Europe remains a reference institution in its fundamental fields of competence and a driver of multidimensional pan-European co-operation in other sectors of its activities. The Assembly should, finally, make a periodical and detailed examination of the Council of Europe's activities and programmes in order to assess their political relevance, and should be consulted on the choice of priorities and on decisions not to renew certain activities.