



Recommendation 1640 (2004)¹

3rd Annual Report on the Activities of the Council of Europe Commissioner for Human Rights (1 January – 31 December 2002)

Parliamentary Assembly

1. The Parliamentary Assembly takes note of the 3rd Annual Report of the Commissioner for Human Rights (“the Commissioner”) on his activities in 2002 and congratulates him on having developed the range of activities of his office in a way that encompasses all elements of his mandate in a varied and flexible manner. It appreciates the dynamic interpretation of the Commissioner’s terms of reference, notably that of Article 8, paragraph 1, as allowing him to issue opinions, including on his own initiative.
2. The Commissioner’s proposal that the Assembly could add its political weight to his recommendations deserves consideration and support. Where the Commissioner has determined that a state has not made proper efforts to implement a recommendation, it therefore invites the Commissioner to inform it accordingly so that it may then take appropriate action.
3. The biannual round tables involving ombudsmen and other human rights institutions, organised by the Commissioner, are encouraged by the Assembly, which welcomes the Commissioner’s practice of inviting it to participate in such events.
4. The Commissioner’s annual reports are greatly appreciated by the Assembly, which encourages its committees – notably the Committee on Legal Affairs and Human Rights and the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe – to refer to and make full use of these reports. In particular, the Assembly resolves to take appropriate follow-up action to the Commissioner’s reports that are addressed to it and to acknowledge, and where relevant, to respond to those reports that have been specifically requested from the Commissioner.
5. The Assembly invites the Commissioner to play a more active role, in co-operation with its own relevant committees and with the Committee of Ministers, in promoting those legislative changes that appear necessary in member countries following judgments of the European Court of Human Rights, thereby helping to stem at source the flow of repetitive cases.
6. The Assembly therefore calls on the Council of Europe member states to implement fully and expeditiously the recommendations addressed to them by the Commissioner; this request is addressed especially to Georgia and Moldova, which were singled out for particular criticism in this respect in the Commissioner’s annual report of 2002, and to the Russian Federation, which has formally accepted the recommendations but has yet to implement them.
7. Moreover, the Assembly calls on the Committee of Ministers:
 - a. to review the terms of reference of the Commissioner and to amend the European Convention on Human Rights so as to enable the Commissioner, when appropriate, to bring cases before the European Court of Human Rights (*actio popularis*), as already proposed in Parliamentary Assembly Recommendation 1606 (2003);

1. Assembly debate on 26 January 2004 (1st Sitting) (see [Doc.10024](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bindig). Text adopted by the Assembly on 26 January 2004 (1st Sitting).



- b. alternatively, as an interim measure, to review the terms of reference of the Commissioner and to amend the European Convention on Human Rights so as to allow the Commissioner to intervene before the Court in pending cases when appropriate;
- c. to incorporate the following amendments during revision of the terms of reference of the Commissioner, as previously suggested in Assembly [Opinion 210 \(1999\)](#):
- to replace Article 3.f of the terms of reference with the words “address, whenever the Commissioner deems it appropriate, a report concerning a specific matter to the Committee of Ministers and to the Parliamentary Assembly”;*
 - to revise Article 8 so as to give the Commissioner sole authority to decide, as he or she deems appropriate, whether to publish his or her recommendations, opinions and reports;*
 - to add at the end of Article 5, paragraph 1, the sentence “The Commissioner may request relevant information”;*
 - to replace in Article 3.e the words “with their agreement, in their efforts to remedy” by “in remedying”;*
 - to revise, prior to the election of the next Commissioner, Article 10 so as to provide that the term of office would end when the incumbent reaches the age of 70;*
- d. to include in its monitoring activities the follow-up of the recommendations addressed to member states by the Commissioner;
- e. to endow the Commissioner with such additional resources as are necessary to enable his or her office to cope with the heavy work programme arising from the existing terms of reference alone (including, for example, the enhanced role in crisis situations) and the additional tasks already carried out, such as the biannual round tables of national ombudsmen institutions, which will be increased by any additional responsibilities that may arise. Whilst welcoming any voluntary contributions made by member states – provided that there are no conditions attached that could jeopardise the independence of the institution – the Assembly draws particular attention to the special need for predictability and stability in the resources made available to the office of the Commissioner.