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REPORT

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Wednesday 29 January at 3 pm

In this report:

1. Speeches in English are reported in full.

2. Speeches in other languages are summarised.

3. Speeches in German and Italian are reproduced in full in a separate document.

Corrections should be handed in at Room 1053 not later than 24 hours after the report has been circulated.

The contents page for this sitting is given at the end of the verbatim report.

Mrs Ojuland, Vice-President of the Assembly, took the Chair at 3.01 pm.

THE PRESIDENT.- The sitting is open.

1. *Minutes of proceedings*

The minutes of proceedings of the previous sitting have not yet been distributed. They will be considered at the next sitting of the Assembly.

2. *Organisation of debates*

THE PRESIDENT.- This afternoon, business is very full, with debates on five reports, for which there is a total of 60 speakers and 58 amendments to consider. I therefore propose that the sitting be extended until 8.30 pm.

I hope we can conclude the votes on the draft report on Yugoslavia by 3.30 pm. We will have to interrupt the list of speakers in the first debate - that is, the joint debate on the execution of death sentences in Russia and Ukraine - at about 4.45 pm and the list of speakers in the second debate at about 6.10 pm in order to leave sufficient time for the replies on behalf of the committees and the votes. The second debate will start at about 5.30 pm and the third debate at about 6.30 pm.

Are these arrangements agreed?

They are agreed.

3. *Situation in the Federal Republic of Yugoslavia - resumed debate*

THE PRESIDENT.- The list of speakers was concluded at this morning's sitting.

I call Mr Blœtzer and Mr Van der Linden, rapporteurs, to reply. They have seven minutes between them.

Mr BLŒTZER (*Switzerland*) responding to the debate considered that there had been widespread agreement to the draft resolution, which had done justice to the present situation and the need to hold an urgent debate.

He wished to respond to two issues that had arisen in the debate. The first was the judgment of the opposition and its leaders. The committee condemned the annulment of municipal elections and noted that demonstrations were peaceful and in pursuit of civic and human rights. It was necessary to support the process of democratisation of the Federal Republic of Yugoslavia but the committee had not reached judgments on the leaders of the opposition. Secondly, on the Kosovo Albanians, Mr Pollo had suggested that a special report should be prepared. The Assembly had already focused on the topic on several occasions. A motion for an order already existed and had been transmitted to the Political Affairs Committee. The recommendation contained in Doc. 7553 was also relevant and had been referred to the Political Affairs Committee.

THE PRESIDENT.- Thank you, Mr Blœtzer.

The debate is closed.

We now come to the votes on the draft resolution and amendments.

The Political Affairs Committee has presented a draft resolution to which four amendments have been tabled. They will be taken in the following order: 2, 3, 4, 1.

We now come to Amendment No. 2, proposed by Mr Valkeniers, which is, in the draft resolution, paragraph 7, before sub-paragraph i., insert a new sub-paragraph as follows:

"acknowledge the victory of the united opposition (Zajedno) in all the cities concerned;".

I call Mr Valkeniers to support the amendment.

Mr VALKENIERS (*Belgium*) said that the draft resolution did not explicitly acknowledge the victories of the Zajedno party. That should be in the report. He wished also to support Amendment No. 3.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr EÖRSI (*Hungary*).- The Political Affairs Committee has discussed the fact that there are some significant concerns about certain parts of the opposition because we do not know what their political platform is. We do know, however, that there are some political forces in the opposition who do not express their political platform according to the so-called compromise, which is shared by everyone in the Assembly. Furthermore, it has never been the tradition of the Council of Europe to take the side of a specific political platform. Such action would discriminate against those nice European people who may stand on a liberal, conservative or whatever political platform, and whom we believe should have a room in our house. If we trusted just one political group those people would be overlooked. Conversely, we might favour those who should not have a room in our house. That is why I think we should reject the amendment.

THE PRESIDENT.- What is the opinion of the committee?

Mr BÁRSONY (*Hungary*).- During the debate in the committee it was made clear that the terms of the amendment are already included in the text. We condemn any kind of violation or cheating concerning the election results. We did not specify one party or another, but condemned any kind of falsification of the election outcome. Therefore all the committee voted almost unanimously against the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 3 proposed by Mr Valkeniers, which is, in the draft resolution, paragraph 7, after sub-paragraph ii., insert a new sub-paragraph as follows:

"cease harassment of non-state media and opponents of the regime;".

I call Mr Valkeniers to support the amendment.

Mr VALKENIERS (*Belgium*).- I have already said why we should support the amendment. I disagree with my colleague who said that we should not take a side. In this Assembly we should always agree that the party that has won the election needs the credit for that.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mr BÁRSONY (*Hungary*).- First, if one reads paragraph 4 one will find it contains a strong condemnation of all kinds of harassment of the independent media. That notion is contained in the resolution.

I know that my colleagues will ask about the harassment of the non-state media. That is not part of the media issue in Yugoslavia because colleagues should remember what happened in Niş where the local authority now belongs to the opposition. They gave the direction of the state-owned media to people in the opposition. The subsequent police action was quite clear, which was to block the state-owned channel. The issue is covered in paragraph 4. We do not make any distinction between state-owned media and non-state media. We condemn any kind of attack against the media. That is why the committee is against the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 4, proposed by Mr Dzasokhov, which is, in the draft resolution, paragraph 7, delete sub-paragraph iii. After paragraph 7, insert a new sub-paragraph worded as follows:

"The Assembly calls upon both the government and the opposition to show restraint, to refrain from fomenting unrest or carrying out action liable to lead to confrontation and urges to establish a genuine political dialogue with a view to normalize the situation and ensure democratic development of the Federal Republic of Yugoslavia".

I call Mr Dzasokhov to support the amendment.

Mr DZASOKHOV (*Russia*) said that the main activity of the Parliamentary Assembly should be to draw attention to political dialogue in Yugoslavia. Dialogue was the only means to reach accord. That was not expressed in the draft resolution. The amendment proceeded logically from the resolution.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr EÖRSI (*Hungary*).- Of course, in principle, I agree with my colleague who submitted the amendment calling for a dialogue. We all agree about the need for a dialogue because we want to avoid violence and that is reflected properly in the draft

resolution. My problem, however, is that the amendment puts the government and opposition in the same basket as if they were both equally responsible for the situation in Yugoslavia, which is absolutely untrue. The opposition was standing in the elections and won some seats in certain cities, but it was cheated out of them and was demonstrating - I must add, in a most peaceful way. So, according to the experience that we have been able to gain so far, the opposition is not interested in the escalation of the conflict.

I am not ready to support any amendment that shares equally the responsibility between government and opposition in Yugoslavia, so I strongly recommend that the Assembly reject the amendment.

THE PRESIDENT.- What is the opinion of the committee?

Mr BÁRSONY (*Hungary*).- The committee was against the amendment. May I add that in paragraph 7.iii of the draft resolution, the Assembly calls on the authorities of Yugoslavia to "establish a genuine political dialogue with the opposition with a view to introducing democratic reforms". That clearly covers part of Mr Dzasokhov's amendment but it does not depend on the opposition, as was said, and the opposition is not guilty of what happened after the cheating in the elections.

We therefore voted against the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 1 proposed by Mr Spahia, which is in the draft resolution, after paragraph 9, add the following new paragraph worded as follows:

"The Assembly calls on the authorities of the Federal Republic of Yugoslavia to respect the national and human rights of the Albanians in Kosovo as well as their political will for a fair and just solution to the Kosovo problem."

I call Mr Spahia to support the amendment.

Mr SPAHIA (*Albania*).- We move this amendment because we are deeply convinced that no peace or stability in the region can be achieved without a fair conclusion to the Kosovo question for all the parties. It is of utmost importance that recognition of the right to self-determination for the Albanian people of Kosovo, as for other peoples in ex-Yugoslavia, be accepted.

If we have accepted that right for all the peoples in ex-Yugoslavia, the Serbs of Krajina, for example, why should we not accept it for the Albanians of Kosovo, the Hungarians of Vojvodina or other people in Sandjak and everywhere else in ex-Yugoslavia?

I therefore ask colleagues to vote for this amendment.

THE PRESIDENT.- Does anyone wish to speak against the amendment.

That is not the case.

What is the opinion of the committee?

Mr BÁRSONY (*Hungary*).- Once again, we should look at the original text. In paragraph 7.iv the Assembly calls on the authorities of the Federal Republic of Yugoslavia to "respect fully the principles of pluralist democracy, human rights, including freedom of the media, and the rule of law, also in Kosovo, Vojvodina and Sandjak". That covers the main and genuine idea presented by Mr Spahia. However, we cannot understand what the phrase, "national rights" of Albanians means. Does it cover minority rights or is it simply the right of secession? The phrase is not used in this Assembly and it could create misunderstandings or be misinterpreted.

For both those reasons, the committee voted against the amendment.

THE PRESIDENT.- I shall now put the amendment to a vote by show of hands.

Mrs SEVERINSEN (*Denmark*).- If we take out the word "national", would that satisfy the Assembly? The important point is the political will.

THE PRESIDENT.- What is the opinion of the committee?

Mr BÁRSONY (*Hungary*).- I do not understand. We were about to vote so there is no place for further comment once you, Madam President, have declared the vote.

THE PRESIDENT.- I am afraid that it is too late to amend the amendment.

The amendment is rejected.

We shall now proceed to vote on the whole of the draft resolution contained in Doc. 7744, as amended.

Mr MARTÍNEZ (*Spain*).- On a point of order, Madam President. The Political Affairs Committee agreed to move a very minor amendment at the beginning of paragraph 9. It was an oral amendment seeking to change the word "expect" to the words "calls on". It was unanimously adopted by the committee and, if no one objects, I move it now.

THE PRESIDENT.- Does anyone object to the oral amendment?

That is not the case. Does anyone want to speak against it? That is not the case either.

Mr BÁRSONY (*Hungary*).- As Mr Martínez said, the committee voted unanimously in favour of the oral amendment and the text now stands as follows: "The Assembly calls on the opposition also to commit itself" and so on. It is a very minor change.

THE PRESIDENT.- Thank you, Mr Bársony.

The draft resolution in Doc. 7744, as amended, is adopted.

(Mr Van der Linden, Vice-President of the Assembly, took the Chair in place of Mrs Oludjan).

4. *Execution of death sentences in Russia and Ukraine*

THE PRESIDENT.- The next item of business this afternoon is the urgent procedure joint debate on the reports on honouring of the commitments entered into by Russia and Ukraine upon accession to the Council of Europe to put into place a moratorium on the execution of death sentences, presented by Mrs Wohlwend on behalf of the Committee on Legal Affairs and Human Rights (Docs. 7746 and 7745).

The list of speakers closed at 12 noon today.

Twenty-seven names are on the list, and 15 amendments have been tabled.

I remind you that we have already agreed that speaking time in the debate be limited to five minutes, and that in order to finish by 5.30 pm, we must conclude the general debate by about 4.40 pm to allow time for the reply and the vote.

I call Mrs Wohlwend to present her reports. She has 10 minutes.

Mrs WOHLWEND (*Liechtenstein*) said that in June 1996 she had submitted a report on the abolition of the death penalty. There had been an urgent procedure debate. She regretted that some countries, namely Russia and Ukraine, had still not honoured their commitment to place an immediate moratorium on the execution of death sentences. In December 1996 the Council of Europe had decided to take part in seminars to assist in the abolition of the death penalty. She had met both the President of the Russian Pardon Commission and the Ukrainian Minister of Justice. She had been disturbed to learn that death sentences were still being carried out. The governments were behaving as if they had never given their agreement to the moratorium. The committee had decided to draft two separate reports as the situation in the two countries was not the same.

In Russia, according to the observations made by Mr Bindig, the last death sentence was executed on 1 August 1996. There was, however, no independent confirmation that the moratorium had taken hold. The committee's report detailed the number of executions which had been taking place, but the most important fact was the very existence of the death penalty.

There was no evidence of a moratorium in Ukraine. Furthermore, and unlike Russia, executions were carried out in secret.

She called on her colleagues to support fully the draft resolutions to show that they did not support the death penalty. It was important that countries understood that they had to fulfil their commitments. Otherwise, they would learn that other countries would be unwilling to enter into agreements in the future.

THE PRESIDENT (Translation).- Thank you, Mrs Wohlwend. In the debate I call Mr Bühler, on behalf of the European People's Party.

Mr BÜHLER (*Germany*) said that promises had not been kept on the abolition of the death penalty by countries that had agreed to work towards abolition on joining the Council of Europe. He noted that abolition of the death penalty had not been a precondition when special guest status had been granted to the countries concerned. Protocol 6 of the Human Rights Convention had stipulated that all member states should work towards abolition of the death penalty. States which had not so far signed the protocol included Albania, Belgium, Bulgaria, Croatia, Cyprus, Estonia, Latvia, Lithuania, Macedonia, Poland and the United Kingdom. Russia should not implement the death penalty - its credibility was at stake.

THE PRESIDENT.- Thank you, Mr Bühler. The next speaker is Mr Carvalho.

Mr CARVALHO (*Portugal*) agreed that the death sentence was unacceptable. Portugal was the first country to abolish capital punishment some 130 years ago. The United States maintained the death penalty, but the crime rates were extremely high. The position in Ukraine and Russia gave great concern, particularly in Ukraine where the death sentence was carried out in secret. It was understood that the dismantling of the political and economic framework which had previously existed in Ukraine and Russia had diminished their resources and had led to poverty, unemployment and organised crime. The solution was to combat the reasons for crime and to strengthen the legal and penal systems. Russia and Ukraine must respect their Council of Europe commitments. However, he did not support the sanctions proposed since they would penalise parliamentarians, some of whom might well be supporters of abolition.

THE PRESIDENT.- Thank you. I now call Mr Solé Tura to speak on behalf of the Socialist Group.

Mr SOLÉ TURA (*Spain*) said that the reports were excellent. They were dealing with a matter of principle: Article 6 of the European Convention on Human Rights abolished the death penalty. The acceptance of that article was an essential element of the accession process. The argument that the use of the death penalty deterred people from crime could not be accepted; crime had many other causes such as poverty. Ukraine and Russia had made explicit commitments on the use of the death penalty. It was accepted that legal changes took time and that flexibility was necessary, but in the case of the death penalty, such flexibility could mean that people would be killed in the meanwhile. Hence the use of a moratorium operating from the day of accession. The moratorium had not been respected and the Council of Europe could not remain silent. It was right to give the United States observer status but that country should be reminded of the Council's objection to the use of the death penalty.

In the Assembly most representatives of Ukraine and Russia agreed with those views on the death penalty. The Assembly should not upset their Russian and Ukrainian colleagues but they had the duty and the right to take firm measures against those ignoring the right to life.

THE PRESIDENT.- Thank you. I now call Mrs Severinsen to speak on behalf of the Liberal, Democrat and Reformers' Group.

Mrs SEVERINSEN (*Denmark*).- During the past four years, members states of the Council of Europe have expected that the various commitments entered into by new member states would be fulfilled. Some commitments do not have to be implemented

immediately, but that does not apply when it comes to the death penalty. The commitment imposed on Russia and Ukraine was crystal clear and reads: "to implement with immediate effect from the day of accession a moratorium on executions of the death penalty."

Today's urgent procedure debate on Russia and Ukraine's non-fulfilment of the commitments is fully justified. If the work of this Assembly is to have any value, we must take proper action when we discover serious abuses of the obligations imposed by the Assembly. Otherwise, countries which have had difficulty in implementing commitments will feel that there are different standards for different countries. As rapporteur on Ukraine's honouring of commitments, I am glad to say that Ukraine is making progress, but it has a bad record on executions. Only China has executed more persons than Ukraine, and after these countries comes Russia.

It is unacceptable that executions take place in secrecy. The death penalty has been turned into a state secret, and we must demand the removal of all secrecy in connection with the rules and procedures of the death penalty. It is strange that the Ukrainian authorities claim on the one hand that the many serious cases of murder necessitate death sentences as a general preventative measure, but on the other hand keep the executions as a state secret. Sometimes nobody - not even the relatives - knows that an execution has taken place.

When the rapporteurs visited Ukraine last November, we had many discussions with various representatives from different political parties. I especially want to underline the efforts made by the Ukrainian Minister of Justice - a former member of this Assembly - Mr Sergei Holoraty, who has done his utmost to address this critical situation but who, apparently, has no influence on the issue. Many of our Ukrainian colleagues here also have little power when it comes to executions, but they have a responsibility to combat the death penalty and to take part in the public debate. Perhaps public sentiment at the moment is in favour of the death penalty, but politicians should have political opinions and should not simply go the way that the wind blows.

We should bear in mind that both Russia and Ukraine have a strict separation of their legislative and executive powers. Consequently, if we warn our colleagues that we may consider the non-ratification of their credentials, we must also ask the Committee of Ministers to take proper action to ensure that the two governments immediately introduce the moratorium.

Mr Németh and I have tabled two amendments - No. 6 on Russia and No. 9 on Ukraine. We hope that the Assembly will support these amendments so that we can ensure that our condemnation is made known. I hope that this will be the last time that we deal with such a flagrant violation of commitments imposed on a member country.

THE PRESIDENT.- Thank you, Mrs Severinsen. The next speaker is Mr Prusak of Russia.

Mr PRUSAK (*Russia*) said that when Russia joined the Council of Europe it made a commitment to meet one of the Council's conditions, the abolition of the death penalty, and in the meanwhile to impose a moratorium on its use. He referred to action taken by the President of the Russian Federation, the law which had been drafted in the Duma and the action of the Federal Assembly in speeding up adoption of that law in 1993. He felt

that it was reasonable that such action should take a number of years; otherwise why had the death penalty not been abolished in all the original member states two to three years after the Council's creation in 1949?

He noted that many speakers had said that parliamentary deputies favoured abolition of the death penalty whereas the government was opposed. He said that that was not the case: the government favoured abolition. It was the public who were concerned at the crime rate, and who were in favour of the death penalty. He said that he spoke as Governor of the Volgograd region. He knew that if he were to speak against the death penalty, there would be a rapid drop in his personal vote.

More caution was needed. If the Council of Europe were to apply sanctions, it would lead to hardship. Russia had made progress even though the situation was difficult, and it was important not to destabilise an already unstable position. He was grateful that the Assembly had shown such concern about the subject.

THE PRESIDENT (Translation).- Thank you, Mr Prusak. I now give the floor to Mr Kostytsky of Ukraine.

Mr KOSTYTSKY (*Ukraine*).- My speech is connected with two feelings. As the author of the draft law of Ukraine on the replacement of the death penalty by life imprisonment, and a member of the Assembly, I should like to express my deep gratitude to Mrs Wohlwend, to the Committee on Legal Affairs and Human Rights and to all of you for the position of principle, which will help to solve the problem of the abolition of the death penalty in our country. However, as a scholar and a lawyer, I am compelled to say something about the report, because it will be the basis for the resolution that the Assembly will adopt. The problem exists because Ukraine has not yet fulfilled its commitment, but I should like to ask the Assembly not to make the form of the memorandum and the resolution too hard.

The memorandum suggests a moratorium on executions even if public opinion is against such a move and the crime rate is rising. We wish democratic states to take decisions that are understood by civil society. Article 3 of the Ukrainian constitution declares that the state is responsible to a person for its activity. Death sentences are handed down in Ukraine only for criminals who have killed more than two people. I am anxious that, just at the moment when my colleagues and I are waging a campaign for the abolition of capital punishment, a few barbaric murders have been committed in Ukraine, and these have struck the public. Only last year, there were more than 4 000 murders. What can we say to the people when one murderer has killed more than 50 persons, including babies and women? We have no information about other countries in Europe, Asia, Africa and North America.

The foundations of legal reform in Ukraine are laid in our new constitution, which was adopted on 28 June 1996. Recently, laws have been adopted dealing with the Constitutional Court and the Supreme Council of Justice - like magistratures in France, Italy or Spain. Other laws on the reform of the legal and judicial systems are under preparation.

I resolutely disagree with the statement in the memorandum that the Supreme Rada strives to reserve the death penalty. My draft law on the abolition of the death penalty is included in the agenda of parliament's seventh session, which starts on

8 February. Besides that, 46 members of the Ukrainian Parliament have signed, on my initiative, an application to the Constitutional Court, claiming that the death penalty contradicts the Ukrainian constitution. Now, this question must pass one more Golgotha, through the discussion at the Constitutional Court. After that decision, I hope that we shall see the end of executions in Ukraine.

On 24 January, the Parliament of Ukraine ratified the convention setting up the Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. However, I still have my two feelings. Ukraine undertook its commitments and must fulfil them. The political campaign in Ukraine is turning into a stage in the adoption of a definite law. Taking into account the social tensions in Ukraine, as well as the socio-economic situation, I should like to say, as a member of parliament, that we should have not a moratorium on the death penalty but the abolition of it. A moratorium should be only the first step. Written in our constitution is the following phrase, "We adopt the constitution, realise our responsibility to God, and to previous, present and forthcoming generations". Article 3 says, "The human being is of the highest value."

I always follow the principle of the outstanding politician, Thomas Jefferson, who said: "Always strive to fulfil your duty and history will justify you even if you fail". The Assembly's duty is worded in paragraph A of Article 1 of the Council of Europe statute.

On behalf of the Ukrainian delegation I should like to provide the Assembly with some official data on the death penalty in Ukraine signed by the chairman of our delegation, Mr Oliynik.

THE PRESIDENT (*Translation*).- Thank you. I now call Mrs Holand.

Mrs HOLAND (*Norway*).- First, I wish to remind colleagues what happened a year ago in January 1996. The Russian application for membership of the Council of Europe was recommended by the Assembly. In our recommendation we clearly expressed the following sentiment: "The Assembly notes that the Russian Federation intends to sign within one year, and ratify within three years from the time of accession, Protocol 6 to the European Convention on Human Rights regarding abolition of the death penalty in time of peace, and to put into place a moratorium on executions with effect from the day of accession."

Similar wording was included in the recommendation regarding the application from Ukraine in 1995. I would like to remind the Assembly that those obligations have been firmly accepted by the two member states. Both countries have committed themselves to the abolition of the death penalty and to introduce a moratorium from the day of accession. Both countries voluntarily applied for membership of the Council of Europe. Negotiations on the terms and conditions for granting that membership went on from 1992. They were clearly stated and accepted. Now the obligations must be fulfilled. So simple in principle, but of course we know that it is not so simple in practice.

Of all the obligations and commitments that member states have to observe, some are more fundamental than others. The respect for the dignity of human life is the most crucial value of all to the Council of Europe.

It is a cause for deep concern to the Assembly that those two countries have yet to take action regarding the moratorium. That is unacceptable to the Assembly. At the

same time we all appreciate the difficulties encountered in those two countries regarding the abolition of the death penalty because of the rising crime rate and public opinion. However, two issues must be emphasised. First, the abolition of the death penalty is an issue of fundamental human rights, and secondly, it is a well documented misconception that the death penalty has any effect on crime rates.

Moreover, the document before us reveals that few judicial safeguards exist in capital cases in the two countries, with an evident risk of unrectifiable miscarriages of justice being the order of the day. The Assembly expects our friends and colleagues from those countries to advocate the abolition of the death penalty and to put in place the moratorium. They should try to influence opinion in their own countries and encourage the respective governments to prepare public opinion to accept the abolition of the death penalty.

In the light of the enormous problems that those two countries face we must help them to manage. I hope we can establish a dialogue with our friends and colleagues here on how the Council of Europe can best assist those two countries to fulfil their obligations. We must state, however, that the Assembly cannot tolerate the fact that member states are in flagrant breach of their most solemn obligation towards the Council of Europe.

It is stated by Amnesty International that continuing executions in Ukraine and Russia undermine the credibility and effectiveness of the Council of Europe and that that calls into question the integrity of the Organisation on the issue of fundamental human rights. That is exactly what is at risk in addition, of course, to the loss of human lives in Ukraine and Russia.

THE PRESIDENT (*Translation*).- Thank you. I now call Mr Magnusson.

Mr MAGNUSSON (*Sweden*).- This urgent procedure debate is not about the death penalty in general. For years the Council of Europe has taken a clear position on capital punishment. The reason for today's debate is that executions are still being carried out in two member states, Ukraine and Russia. I greatly deplore the fact that it is necessary to hold the debate. Despite both countries' commitment on accession to the Council of Europe, the moratorium on executions is not in force either in Russia or in Ukraine. That is completely unacceptable. It is absolutely necessary for the Assembly to protest against their violation of those commitments.

During the debate members have argued that the death penalty has to remain because of the increase in the rate of crime in the respective countries, especially murder and other severe crimes. Therefore, they say, it is extremely difficult in the current situation to put in place a moratorium. In reality, there is no scientific evidence of the connection between capital punishment and the rate of crime.

The statistics on executions have also been disputed. In my view it is obvious that executions are still being carried out in Russia and Ukraine. Even if the statistics revealed that there had been only one single execution that would be unacceptable. I have information from the Swedish section of Amnesty International on the number of people executed in both countries and they are similar to the figures in Mrs Wohlwend's report.

Another argument has been that it is impossible to have a moratorium because people demand the death penalty. It is a question of information and education. It will be an essential task for politicians in every country to argue against the death penalty and to give extremely good reasons. It is an important task for the Council of Europe to support work in every country to inform people about the reasons for a moratorium and the abolition of capital punishment.

It is extremely important for the future credibility of the Council of Europe that commitments entered into are honoured by all members. I therefore urge all the relevant authorities in Russia and Ukraine to fulfil their commitments.

THE PRESIDENT (*Translation*).- Thank you. I now call Mr Yavorivsky.

Mr YAVORIVSKY (*Ukraine*) said that he found it difficult to argue against the members who had spoken in the debate. The arguments against the death penalty were well known and he too was against the death penalty. The draft resolution on the Ukraine seemed to be very democratic and was perhaps too flexible. He was convinced that the decision could have been more severe. Mr Zhrinovsky, for example, might have asked why Ukraine should not be excluded from the Council of Europe. He was grateful that that had not happened. He asked members to understand Ukraine's situation. In the 10th century Prince Vladimir had abolished the death penalty but at the end of his life he had been forced to bring it back.

He said that the civil war had brought famine and other disasters plus great loss of life. The Assembly's decision would speed up the process of abolition. He asked for the understanding of the Assembly and more time for Ukraine to abolish the death sentence. There was a bill for abolishing the death sentence currently before the Ukrainian Parliament and there was a need for clarification.

THE PRESIDENT (*Translation*).- Thank you. I now call Mr Fydorov.

Mr FYDOROV (*Russia*) informed the Assembly that Russia was committed to the gradual abolition of the death sentence. A decree had been signed by the President of Russia reducing the number of capital crimes from 23 to five. There remained only one crime, however, which carried the death penalty - that of premeditated murder. The gradual abolition was necessary because public opinion had to be prepared. After 4 August 1996 a moratorium had been in place and no death sentence had been carried out in Russia since that date. The Russian Parliament had a draft law at first reading stage. There was, in his opinion, no connection between the level of crime and the death penalty. The proposals were not appropriate.

THE PRESIDENT (*Translation*).- Thank you. I now call Mr Saakashvili.

Mr SAAKASHVILI (*Georgia*) (*Special guest*).- It is neither a compliment nor an overstatement to say that the persistent and intelligent efforts of this Assembly to abolish the death sentence have been the determining factor in outlawing that form of punishment throughout Europe, not only in new member states but in prospective member states. There has hardly been a pro-death sentence argument to which the Assembly has not found counter arguments, and all those who have been reached by those counter arguments will have been convinced by them.

An example of a prospective member state is my country, Georgia, where we officially instituted a moratorium on executions two months ago, although we are not obliged to do so because we are not a member state of the Council of Europe. The debates and arguments that we hear in this Assembly are the same as those that we have heard in our national parliament and I believe that you all hear them in your national parliaments, too.

There are two main pro-death sentence arguments. The first is that the death sentence is a deterrent. That argument is not valid. We know from our experience that during the two months of moratorium the crime rate in Georgia dropped sharply. The second argument is that public opinion is in favour of the death sentence. We still have public opinion and it is not necessary to remind the Assembly that being a politician means not only following public opinion but that, through leadership, leading that public opinion. That argument should, therefore, not be advanced by politicians.

I cannot accept arguments based on the special circumstances of any one country - for example, its high criminal rate. Those arguments have been overturned by the many examples of where the death sentence has been abolished. However, it is a continuing struggle and public opinion is not the main problem.

The main problem concerns conservative structures within the state, notably in those states where the minister of the interior and the prosecutor's office believe that the death sentence is an efficient means of satisfying public opinion and an investigative technique that can be used by prosecutors and investigators. That applies not only in Ukraine and Russia but in all countries where the death sentence exists. Just as torture was used in past centuries as a means to extract confessions, now the threat of the death sentence, even if there is a moratorium, is used by investigators when they work with detainees. We should also think about equating this sort of treatment to inhuman and degrading treatment and outlaw it. It is not only a question of public opinion, but of existing conservative structures - the campaign against them should continue.

The news that Russia has, since last August, stopped executions is encouraging. Russia should be complimented on that and rewarded for it. In the Ukraine some positive steps have been taken. The current parliament, whose members are here today, now has a constitution under which the death sentence can be seriously questioned. I think that that issue is on the agenda of the constitutional court, or at least steps have been taken towards it. In addition, the criminal code has been seriously reformed and there is a draft proposal to abolish the death sentence. The abolition of the death sentence is getting closer and there is some chance that the situation will improve.

There is something terribly wrong about reprimanding our fellow Assembly members for what they are doing; it will damage the cause as, after that, the agenda may be considered as a personal agenda rather than an agenda to influence those who play a key role in preserving the death sentence. Efforts through the Committee of Ministers can be much more productive and will send the correct signals to those to whom they should be sent.

THE PRESIDENT.- Thank you very much Mr Saakashvili. I give the floor to Mr Contestabile.

Mr CONTESTABILE (*Italy*) said that the Italian delegation would support the two draft resolutions in favour of the total immediate abolition of the death penalty in Ukraine and Russia. However, he was a little confused about the use of the term "immediate". It was necessary to be patient and to give time to those working for that aim in Russia and Ukraine. Both those countries were experiencing a difficult transitional phase from communism to capitalism. It was a new experience and they were having to feel their way in the dark. He made comparisons between those countries which had been imbued with the light of thinkers like Voltaire, and those Slavic nations whose history, to quote historians, had been one of imminent negativity. Although he did not agree with a word of what Mr Zhirinovsky had said, he felt that Mr Zhirinovsky represented part of the deep feelings of Russia. The deep Russian heart must be respected. Asking Russia and Ukraine to abolish the death sentence tomorrow would be like asking them to get rid of their governments tomorrow. That would be destabilising. He supported the reports but would like to see prudence and patience. The demand should not be for immediate abolition: it was a moral issue, but politics had different rules and timescales and that should be recognised.

Mr DZASOKHOV (*Russia*), on a point of order, took exception to the methods of analysis used by the previous speaker.

THE PRESIDENT (*Translation*).- Thank you. I now call Mr Oliynik.

Mr OLIYNIK (*Ukraine*) wished to highlight some of the changes which Ukraine was implementing. Ukraine was embarking on a number of judicial changes in line with the Council of Europe's principles, and had ratified almost all the convention. He was aware that there was a need to speed up the process.

The report made it clear that the state as a whole wished to abolish the death penalty. The bill had been tabled, and the Cabinet of Ministers had yesterday tabled another bill to establish a moratorium on executions. He said that capital punishment was used only for those convicted of premeditated murder of two people or more. He said that the process of change was irreversible, and that no one person could deprive another of life.

THE PRESIDENT (*Translation*).- Thank you. I call Mr About.

Mr ABOUT (*France*), on a point of order, said that it was unfortunate that not all speakers had been able to join the debate. He noted that the death penalty still existed in a number of states in the United States, and he asked whether the committee would agree that the observer status of the United States should be suspended.

THE PRESIDENT said that this was not a matter that could be discussed then. There were two important items remaining on the agenda.

THE PRESIDENT (*Translation*).- I must now interrupt the list of speakers.

I remind you that members who are on the list and present in the Chamber but who are not able to speak may submit their speeches in writing in a final and legible form at the end of the debate for publication in the official report. I call the chairman of the Committee on Legal Affairs and Human Rights to speak. He has three minutes.

Mr HAGÅRD (*Sweden*).- This urgent debate has been forced by a seminar that was held by the Committee on Legal Affairs and Human Rights in Kyiv at the end of November and by the continuing monitoring of the situation in Ukraine. Our rapporteur, Mr Németh was present. What we found made it necessary to ask for an urgent debate today. This is the second such debate in one year. We had to hold one debate on the same topic on 26 June last year. I sincerely hope that we will never again be forced to arrange an urgent debate on this matter.

I greatly admire our colleagues from Russia and Ukraine. As parliamentarians, they are fighting very hard to fulfil their countries' commitments. The Kyiv seminar was arranged by our committee in co-operation with the Ukrainian Ministry of Justice. There is much goodwill and I hope that we will be able to say that there are no death sentences in our part of the world. That may compensate for the not too brilliant century that will soon go into its grave.

I greatly enjoy being chairman of the committee and working with Mrs Wohlwend but I hope that our next debate will be on another subject.

THE PRESIDENT (*Translation*).- Thank you. I call Mrs Wohlwend, Rapporteur of the Committee on Legal Affairs and Human Rights. You have seven minutes.

Mrs WOHLWEND (*Liechtenstein*) said that the Assembly was not the correct place to discuss the use of the death penalty in the United States. She thanked all of her colleagues who had spoken, particularly those who came from Russia and the Ukraine. The committee was keen to see a moratorium on executions, and was frustrated at the delay in introducing it. She agreed that there was scope for change in the opinion of citizens of Russia and of Ukraine.

No time was needed to keep promises which had already been made. The commitment was for an immediate moratorium. She insisted on the word immediate. The Russian and Ukrainian members had asked their colleagues not to be too hard on them. She understood the plea on an emotional level, but in legal terms it was necessary to be strict. In considering whether the draft resolutions were too strict, members should be aware that they only called for the exclusion of Russian and Ukrainian members from the beginning of the next full session of the Parliamentary Assembly in 1998, and not the next part-session. That action would not punish the Russian and Ukrainian members who were working for the abolition of the death penalty; rather, it would support them.

The PRESIDENT (Translation).- Thank you, Mrs Wohlwend. I believe that your words reflect members' opinions.

The debate is closed.

The Committee on Legal Affairs and Human Rights has presented a draft resolution in Doc. 7746 on Russia, to which six amendments have been tabled. They will be taken in the order in which they appear in the notice paper, as follows: 1, 2, 4, 3, 5 and 6. If Amendment No. 4 is adopted Amendment No. 3 falls.

We now come to Amendment No. 1, proposed by Mr Lukin, which is, in the draft resolution, paragraph 1, delete the words: "It regrets that the Russian authorities have

failed to inform it of the number of executions carried out in the second half year" and insert the following text:

"According to the information given to the Rapporteurs on Russia in December 1996, executions were not carried out since August 1996".

I call Mr Lukin to support the amendment.

Mr LUKIN (*Russia*) said that the words in the draft resolution did not accurately reflect the current state of affairs. The death penalty had not been carried out in Russia since 4 August 1996. The President had not signed any document which would have lead to an execution since April. However, the first paragraph of the draft resolution stated that the Council of Europe had not been informed by Russia of the number of executions carried in the second half of 1996. He said that there had been none.

THE PRESIDENT.- I give the floor to Mr Bindig, to propose an oral sub-amendment.

Mr BINDIG (*Germany*) said that on his visit to Russia he had been informed that no executions had taken place since 1 August. The amendment should therefore say "according to the information given to the Rapporteur on Russia in December 1996, executions were not carried out since 2 August 1996". Could Mr Lukin confirm that he had said that there had been no executions since 4 August?

Mr LUKIN (*Russia*) said that he had been informed that the correct date was 4 August but that he was willing to accept Mr Bindig's information and accept the sub-amendment.

Mr BINDIG (*Germany*) proposed that the sub-amendment be accepted.

THE PRESIDENT.- Does anyone wish to speak against the sub-amendment?

Mr FRUNDA (*Romania*).- I am speaking against the amendment and the sub-amendment because, over the second part of the last year, the Committee on Legal Affairs and Human Rights asked several times for concrete figures on executions in Russia, but we had no figures from Russia. To come in the last day before the debate in the hemicycle and say, "These are the figures", puts us in an uncomfortable position. The draft report is well done and it is a good link between the articles. Therefore, the Assembly should reject the amendment.

THE PRESIDENT.- What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*).- At the meeting of the sub-committee earlier this afternoon, we discussed the matter, and decided in favour of the sub-amendment of Mr Bindig and the amendment.

THE PRESIDENT (Translation).- First, I suggest that we vote on the oral sub-amendment by a show of hands.

The oral sub-amendment is adopted.

I shall now put the amendment, as amended, to the vote by a show of hands.

The amendment, as amended, is adopted.

We now come to Amendment No. 2, proposed by Mr Lukin, which is, in the draft resolution, delete paragraph 2 and insert the following text:

"Upon accession to the Council of Europe, Russia declared its intent to put into place a moratorium on executions with effect from the day of accession. Executions carried out in Russia in 1996 run counter to this clearly expressed intent."

I call Mr Lukin to support the amendment.

Mr LUKIN (*Russia*) moved the amendment formally.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment? That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee opposed the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to a vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 4, proposed by Mr Seitlinger, which is, in the draft resolution, paragraph 4, delete the words: "However, the Assembly must condemn Russia for having violated her commitment to put into place a moratorium on executions, and deplores the executions that have taken place. It" and insert the following:

"The Assembly condemns the executions that have taken place and".

I call Mr Seitlinger to support the amendment.

Mr SEITLINGER (*France*) supported the amendment.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr FRUNDA (*Romania*).- Of course we condemn executions and the death penalty wherever they take place, but here we are speaking about executions in Russia and condemning the Russian authorities, because executions take place in Russia. Therefore, I am against the amendment.

THE PRESIDENT (Translation).- What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee opposed the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 3, proposed by Mr Belyaev, which is, in the draft resolution, paragraph 4, delete the words: "However, the Assembly must condemn Russia for having violated her commitment to put into place a moratorium on executions, and deplores the executions that have taken place. It" and insert the following:

"The Assembly deplores the executions that have taken place and".

I call Mr Dzasokhov of Russia to support the amendment.

Mr DZASOKHOV (*Russia*) supported the amendment.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment? That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee rejected the amendment.

THE PRESIDENT (Translation).- So, you are against the amendment.

I shall now put the amendment to a vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 5, proposed by Mr Prokes, which is, in the draft resolution, paragraph 5, delete the second sentence and insert a new sentence worded as follows:

"In particular, if in the near future Russian legislative, executive and judicial authorities do not take appropriate measures in order to stop the executions, the Assembly may consider the non-ratification of credentials of the Russian parliamentary delegation".

I call Mr Seitlinger to support the amendment.

Mr SEITLINGER (*France*) spoke in favour of the amendment.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

Mr FRUNDA (*Romania*).- We debated the amendment in depth in the Committee on Legal Affairs and Human Rights. I think for the dignity and fairness of the Council of Europe it is important that we should set the deadline when the country has to fulfil its commitments in the next session. That is why I am against the amendment.

THE PRESIDENT (Translation).- What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee opposed the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 6, proposed by Mrs Severinsen, which is, in the draft resolution, after paragraph 5, add a new paragraph worded as follows:

"The Assembly may also, at its next part session, consider what action could be envisaged by the Committee of Ministers to ensure that the moratorium on executions will be put into place with immediate effect".

I call Mrs Severinsen to support the amendment.

Mrs SEVERINSEN (*Denmark*).- We have just said in the final paragraph that the credentials could be taken away from our colleagues. I therefore think that it would also be appropriate to talk about the government, which is a matter for the Committee of Ministers. We should mention that it also has a responsibility. The existing wording of the paragraph is weak. It should be much stronger and turned into a recommendation, although I know that that would be a little difficult. I therefore hope that we can accept the amendment, which identifies that this is also a responsibility of the Committee of Ministers.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr DZASOKHOV (*Russia*) said that the normal way of working in the Council of Europe was for the President of the Assembly to pass the views of the Assembly to ministers. He asked that the matter should not be postponed further and that it be referred to the Committee of Ministers.

THE PRESIDENT (Translation).- What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee was in favour of the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We will now proceed to vote on the whole of the draft resolution contained in Doc. 7746, as amended.

The draft resolution, as amended, is adopted.

The Committee on Legal Affairs and Human Rights has presented a draft resolution in Doc. 7745, on Ukraine, to which nine amendments have been tabled. They will be taken in the order in which they appear in the notice paper, as follows: 1, 2, 3, 4, 9, 5, 6, 8 and 7. If Amendments Nos. 6 or 8 are adopted, Amendment No. 7 falls.

We now come to Amendment No. 1, proposed by Mr Kostytsky, which is, in the draft resolution, paragraph 1, after the words "have failed to inform it", add the words: "in time".

I call Mr Kostytsky to support the amendment.

Mr KOSTYTSKY (*Ukraine*).- Because of the importance of this matter I shall speak in Russian.

(*The speaker continued in Russian.*)

He said that the information had come late but in future it would be delivered on time.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee was against the amendment. When there was no information, "in time" made no sense. She also said that as there were two reports on the same topic they should ensure that there was not a two-track approach. Whatever was decided concerning Russia should also apply to Ukraine.

THE PRESIDENT (Translation).- I think that speaks for itself. Does everyone agree?

I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 2, proposed by Mr Kostytsky, which is, in the draft resolution, delete paragraph 2.

I call Mr Kostytsky to support the amendment.

Mr KOSTYTSKY (*Ukraine*) said that he would like to propose a sub-amendment. Decisions on Ukraine should be like those agreed for Russia and there should be a vote.

THE PRESIDENT asked for the committee's opinion.

Mrs WOHLWEND (*Liechtenstein*) said that it was difficult to judge. They had deliberately chosen different wording for that particular part of the resolution because the secrecy in which executions took place in Ukraine was particular to the Ukraine. The committee was against the sub-amendment.

THE PRESIDENT (*Translation*).- It is not possible to vote on the verbal sub-amendment because an objection had been made to it. I will put the amendment to the vote by a show of hands.

The amendment is rejected.

Mr KOSTYTSKY (*Ukraine*) said that he was unclear how the previous vote had gone.

THE PRESIDENT explained that verbal sub-amendments could not be taken if someone objected to them; therefore it had to fall. Amendment No. 2 had been rejected.

THE PRESIDENT (Translation).- We now come to Amendment No. 3, proposed by Mr Kostytsky, which is, in the draft resolution, paragraph 4, add at the end the following words:

"The Assembly notes that among important steps being taken by Ukraine towards fulfilling its commitments is the official draft law of Ukraine on the replacement of the death penalty by life imprisonment and the application by 46 members of the Ukrainian parliament to the Constitutional Court of Ukraine claiming that capital punishment contradicts the constitution of Ukraine."

I call Mr Kostytsky to support the amendment.

Mr KOSTYTSKY (*Ukraine*) highlighted the role of Ukraine's Constitutional Court which also had to consider the draft legislation on abolishing the death penalty.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

Mr FRUNDA (*Romania*).- The fourth paragraph of the draft resolution states: "The Assembly welcomes and supports all efforts in the country, especially in the Supreme Rada ... Ministry of Justice" and so forth, but here we are not speaking about draft laws or the deficiency of the Supreme Court. We are talking about the moratorium, which is a commitment by the Ukrainian authorities. I therefore propose that the Assembly rejects the amendment.

THE PRESIDENT.- What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee agreed with Mr Frunda.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 4, presented by Mr Kostytsky, which is, in the draft resolution, paragraph 5, replace the words: "However, the Assembly must condemn Ukraine for having violated her commitment" by the following words:

"The Assembly draws the attention of Ukraine and the people of the world to the non-fulfilment by Ukraine of her commitment"

I call Mr Kostytsky to support the amendment.

Mr KOSTYTSKY (*Ukraine*) said that he wanted to make the wording of the resolution less severe.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee did not want double standards and that it believed that the wording of the resolution concerning Ukraine should be the same as that concerning Russia. She said that the committee opposed the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 9, proposed by Mrs Severinsen, which is, in the draft resolution, after paragraph 5, insert a new paragraph worded as follows:

"The Assembly may also, at its next part-session, consider what action could be envisaged by the Council of Ministers to ensure that the moratorium on executions will be put into place with immediate effect."

I call Mrs Severinsen to support the amendment.

Mrs SEVERINSEN (*Denmark*).- For the sake of consistency I urge the Assembly to accept the amendment.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee supported the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 5, proposed by Mr Kostytsky, which is, in the draft resolution, paragraph 6, first sentence, replace the word "warns" by the word: "informs".

I call Mr Kostytsky to support the amendment.

Mr KOSTYTSKY (*Ukraine*) said that the Assembly should not condemn a state, and his amendment was designed to reflect that.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee opposed the amendment. She said that previously the committee had informed, and now it was time to warn.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 6, proposed by Mr Yavorivsky, which is, in the draft resolution, delete the second sentence of paragraph 6.

I call Mr Yavorivsky to support the amendment.

Mr YAVORIVSKY (*Ukraine*) was concerned at the implications of Amendment No. 6.

THE PRESIDENT asked whether anyone wished to speak against the amendment. He called Mr Bindig.

Mr BINDIG (*Germany*) said that it was important not to be distracted from the subject under discussion.

THE PRESIDENT called for the opinion of the committee.

Mrs WOHLWEND (*Liechtenstein*) said that the committee was opposed to the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 8, proposed by Mr Kostytsky, which is, in the draft resolution, paragraph 6, replace the second sentence as follows:

"The Assembly takes note of the non-fulfilment of the commitment entered into by Ukraine upon accession to the Council of Europe and should executions of the death penalty go on, the Assembly may consider the use of sanctions with regard to Ukraine."

I call Mr Kostytsky to support the amendment.

Mr KOSTYTSKY (*Ukraine*) supported the amendment.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee opposed the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 7, proposed by Mr Yavorivsky, which is, in the draft resolution, paragraph 6, delete the words: "the non-ratification of the credentials of the Ukrainian parliamentary delegation" and replace with the following text:

"at its next session progress in fulfilling all the commitments of Ukraine made upon accession to the Council of Europe in the context of the socio-economic situation in that country".

I call Mr Yavorivsky to support the amendment.

Mr YAVORIVSKY (*Ukraine*) said that Ukraine would like to co-operate with the Assembly. There was much that the Assembly was not taking into consideration. There were some in Ukraine who were trying to worsen relations with the rest of Europe.

THE PRESIDENT (Translation).- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the committee was against the amendment.

THE PRESIDENT (Translation).- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

Mrs SEVERINSEN (*Denmark*).- On a point of order. I have discovered that there were originally six paragraphs in this draft resolution and five in the others. My paragraph should be paragraph 7, not paragraph 6. If you could change the order, it would help.

THE PRESIDENT (Translation).- What is the opinion of the committee?

Mrs WOHLWEND (*Liechtenstein*) said that the proposal was logical.

THE PRESIDENT (Translation).- That is agreed.

Mr KOSTYTSKY (*Ukraine*), on a point of order, asked for the opinion of the committee on his comments about Amendment No. 2.

THE PRESIDENT said that was not a point of order.

THE PRESIDENT (Translation).- We will now proceed to vote on the whole of the draft resolution contained in Doc. 7745, as amended.

The draft resolution, as amended, is adopted.

(*Sir Anthony Durant, Vice-President of the Assembly, took the Chair in place of Mr Van der Linden.*)

5. *Honouring of obligations and commitments by Albania*

THE PRESIDENT.- The next item of business this afternoon is the debate on the report on honouring of obligations and commitments by Albania presented by Mr Columberg on behalf of the Committee on Legal Affairs and Human Rights (Doc. 7716) with an opinion presented by Mr Van der Linden on behalf of the Political Affairs Committee (Doc. 7738) and with an oral opinion presented by Mr Ruffy on behalf of the Committee on Relations with European Non-Member Countries.

The list of speakers closed at 12 noon today.

Fourteen names are on the list, and five amendments have been tabled, together with three sub-amendments.

In order to finish by 6.30 pm, we must conclude the general debate by about 6.10 pm to allow time for the reply and the vote.

I call Mr Columberg (Rapporteur of the Committee on Legal Affairs and Human Rights, to present his report.

Mr COLUMBERG (*Switzerland*) said that the recent upheavals in Albania had been triggered by the fraudulent actions of investment firms. The government was not directly responsible for those actions. Such fraudulent dealings had taken place in other countries in recent years. He hoped that the problems caused by those fraudulent dealings could be solved peacefully.

Since 13 July 1995 Albania had been a member of the Council of Europe. Accession had been accompanied by a number of reservations and conditions. On 6 November 1995 it had been moved that the Committee on Legal Affairs and Human Rights should examine the fulfilment of these commitments. He had visited Albania along with the late Lord Finsberg and Mr Ruffy. They had held in-depth discussions with the leaders of Albania. The report had been delayed by the recent presidential and general elections. They did not want to have an open debate on the report at a time that might have influenced the outcome of those elections.

He noted that local elections in October 1996 had been observed by the Council of Europe and found to be mostly free and fair. It should not be forgotten that Albania had laboured under a totalitarian system and its starting point in that area was zero. Considerable progress had been made in the intervening time span. Various conventions and instruments had been ratified including the Convention on Human Rights and those relating to the prevention of torture and the abolition of death penalties. Reform in many areas was, nevertheless needed, including those affecting the public prosecutor, the police and the courts, which should be undertaken within a set time limit. The "genocide law" should be brought into line with Council of Europe principles. A new constitution was needed and the Council of Europe must assist the Albanian authorities in instituting a system based on the rule of law.

THE PRESIDENT.- Thank you, Mr Columberg. I call Mr Van der Linden, Rapporteur of the Political Affairs Committee. You have seven minutes.

Mr Van der LINDEN (*Netherlands*) said that it was important to provide a political basis in Albania. There was more willingness to take part in parliamentary affairs and renewed efforts were required. He had tabled some amendments which he would move later in the debate.

THE PRESIDENT.- Thank you, Mr Van der Linden. I now call Mr Ruffy to speak on behalf of the Committee on Relations with European Non-Member Countries.

Mr RUFFY (*Switzerland*) had noted much progress but considered that much remained to be done. Criticisms had been levelled at the electoral system and some proposals had been taken up between the May and October elections. It seemed that Albania had made a good democratic start, but the advantages had since vanished. Institutions had foundered and all power now resided in the President's hands. Swindling had reached record levels in Albania. It was difficult to separate human rights issues from economic aspects. With help from a bank it was possible that a reliable economic system could be set up and people could learn how to handle money.

THE PRESIDENT.- Thank you, Mr Ruffy. We have a limited amount of time and I would be grateful if speakers could stick within the time limit. I call Mr Brunetti to speak on behalf of the Group of the Unified European Left.

Mr BRUNETTI (*Italy*) said that the proposal in the report seemed to be an appropriate one: it was not rushing to conclusions but proposed that monitoring should continue. Albania must comply with two basic principles: it should recognise human rights and allow democratic dialectics. He made reference to the failures of Albania under monitoring Order No. 508. It had been said that the way of thinking and acting in Albania was bringing democracy to a halt. Against that background, the Council of Europe was quite right to ensure that Albania's shortcomings were noted by one and all. He commented on the possible impact on the Balkans as a whole. He made reference to political leaders in Albania who had been in jail. He expressed concern about passports being granted to enter Europe from countries which were anti-democratic and authoritarian, and made comparison with recent events in that very Assembly. Mrs Iotti, the object of that incident in the Assembly, deserved the Assembly's greatest concern.

THE PRESIDENT.- Thank you, Mr Brunetti. I now call Mr Bühler, to speak on behalf of the European People's Party.

Mr BÜHLER (*Germany*) said that since the collapse of communism, Albania had followed the path of democracy. As a result of communism, the country was in complete economic and social chaos. Those in custody, to whom the previous speaker had referred, had some responsibility. He felt that Albania had demonstrated considerable success in introducing democracy, and cited the previous year's municipal elections as an example.

THE PRESIDENT.- Thank you, Mr Bühler. I now call Mr Jaskiernia.

Mr JASKIERNIA (*Poland*).- I congratulate Mr Columberg on an excellent report and Mr Van der Linden and Mr Ruffy on their additional material. The report says, "Albania has made considerable progress towards the fulfilment of her obligations and commitments since she became a member state on 13 July 1995", and we agree with that. We understand, and take into account, the situation that existed before Albania joined the Council of Europe. It was a tragic situation, and human rights were constantly abused. Given that Albania went through all that, the fact that it is now a Council of Europe member should make us appreciate the progress that it has made.

Of course, Albania has ratified the European Convention on Human Rights and many of its protocols as well as the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment and its protocols. The latter is an important step towards human rights and democracy. We are also aware that a number of obligations and commitment remain unfulfilled as yet. In particular, the Albanian authorities should further continue reform of the prosecutor's office, the judiciary and the police. The "decommunisation" laws should be abolished or reformed to make them compatible with Council of Europe standards and principles.

The recent upheavals in Albania are closely followed by the members of our group. I understand what Mr Columberg said - that we should not link this report with those recent events. Such a financial crisis can occur in every country and banking and saving institution crises can occur in the old member states, as we have seen. During the upheavals and the fighting resulting from that crisis, the Albanian Government will, we hope, respect human rights, especially the rights of the freedom of the citizen and the freedom of association and manifestation. That will be an important test of how it fulfils its obligations to the Council of Europe, whatever the political motives lying behind those events. That will be very important.

We would also like to stress that the help that the Council of Europe can provide for Albania has an important meaning. The draft recommendation suggests, "stepping up financial and expert aid to Albania in the fields of the legislative process, protection of human rights and reform of judicial institutions and law-enforcement bodies". The report also speaks of the extension of "the co-operation programme to the Albanian bar association" and "help to build up local administrative structures conforming to Council of Europe's standards".

The draft resolution says that "The Assembly invites all political parties to participate in the political dialogue and to co-operate in the political institutions in order to ensure the successful continuation of the reform process." We could ask whether we should put such a notion in a report speaking about the honouring of obligations and commitments by Albania. It is not a formal obligation, but we feel that we should keep that element in paragraph 5 because we know how big an effort the Council of Europe has made to ask the political parties of Albania to have a political dialogue and to co-operate.

That is an important element because it symbolises that the Council of Europe is especially interested to see that co-operation with the political parties is further developed, especially with a view to solving recent crises.

The Assembly resolves to go on monitoring Albania's compliance with its obligations and commitments. It is right to continue that monitoring process, perhaps through the monitoring committee. I also think that the Committee on Legal Affairs and Human Rights also has a role to play.

THE PRESIDENT.- Thank you. I now call Mr Mignon.

Mr MIGNON (*France*) said that he was able to speak from experience. He had observed that Albania was especially keen to be seen to be honouring its commitments. It was important to offer Albania help.

Albania had chosen democracy and everything that that entailed. Despite the difficult situation in the Balkans, it was making progress. Members could only encourage the Albanian public to travel further down that path. The country's leaders had resisted calls to establish a greater Albania. Albania had ratified the European Convention on Human Rights and it had established an independent judiciary.

In 1996 Albania had chosen the Council of Europe to monitor its elections rather than the Organisation for Security and Co-operation in Europe. The elections had been generally fair, despite irregularities. The progress already made in Albania should not be underestimated; they had had to come a long way from the old communist system. He said that there should be an agreement of association between Albania and the European Union.

THE PRESIDENT.- Thank you. I call Mr Spahia of Albania, who will be the final speaker.

Mr SPAHIA (*Albania*).- First, I would like to congratulate the Rapporteur, Mr Columberg, on the good report that has been presented to the Assembly.

Following the recommendations of the Council of Europe we adopted very important laws in a very short period of time, which have deeply contributed to the fulfilment of most of the obligations and commitments entered into by Albania, as listed in the Assembly Opinion 189 of 1995.

Important amendments have been adopted on the law on genocide and crimes against humanity committed in Albania during the communist regime and the law on the verification of the official figures, which have greatly restricted the effects of those laws. The European Convention on Human Rights and many of its protocols have been ratified, as well as the European Convention for the Prevention of Torture and its protocols. The law on elections has been amended and a permanent election commission has been established. The changes to the structure of the commission have taken place in line with the recommendations of the Council of Europe. The law on public rallies, which regulates the tasks of the police forces, has been approved. The moratorium on death penalties has been respected. Those achievements stress, as has already been mentioned in the report of Mr Columberg and other speakers in the debate, that considerable progress has been

made by Albania towards the fulfilment of the commitments and obligations that it entered into.

On the constitution, we are intensively working to establish a parliamentary commission to consider a new draft constitution, as foreseen in our main constitutional provisions. We have invited the opposition many times to take their seats in parliament so that they can contribute to the establishment of that commission, which will consider the new draft constitution. Our commitment now is to create a better political climate, which calls for the collaboration of all political forces in Albania.

It is a fact that thousands of Albanians are suffering because of the bankruptcy of two pyramid schemes. In order to cope with that phenomenon the government has frozen the deposits of those firms that are held in the state banking system. On 5 February, a special act will come into force to effect the redistribution of 90% of the principal amount loaned to the lenders.

We have witnessed the support of the Council of Europe and we are ready to co-operate fully with the Assembly to fulfil the remaining obligations and commitments placed on Albania.

The PRESIDENT.- Thank you for keeping within time.

I must now interrupt the list of speakers.

I remind you that members who are on the list and present in the Chamber, but who were not able to speak may submit their speeches in writing in a final and legible form at the end of the debate for publication in the official report.

Does Mr Ruffy wish to reply to the debate?

Mr RUFFY (*Switzerland*).- No.

THE PRESIDENT.- Does Mr Van der Linden wish to say anything?

Mr Van der LINDEN (*Netherlands*).- No.

THE PRESIDENT.- Does Mr Columberg wish to say something? You have seven minutes, but if the Chairman of your committee wishes to speak you must share the time with him.

Mr COLUMBERG (*Switzerland*) welcomed the positive reception given to the report during the debate and underlined the need for understanding of the position of Albania. It was not possible to expect a constitutional state to emerge overnight. There were still outstanding problems in the area of justice and in particular concerning the "genocide law" to which he hoped adjustments would be made as soon as possible. The Council of Europe should guarantee full support for Albania. The fraudulent dealing must be resolved using constitutional means and he was pleased to note that the government was attempting to minimise the effects on the populace. The police and army should observe constitutional rules.

THE PRESIDENT.- Thank you. I understand that the Chairman of the committee does not wish to comment at this stage.

The debate is now closed.

The Committee on Legal Affairs and Human Rights has presented a draft resolution to which four amendments together with three sub-amendments have been tabled. They will be taken in the following order: Nos. 1, 2, 3, and Sub-Amendments Nos. 1, 2, and 3, and Amendment No. 4.

We now come to Amendment No. 1, proposed by Mr Van der Linden on behalf of the Political Affairs Committee, which is in the draft resolution, paragraph 1, delete the word "considerable".

I call Mr Van der Linden to support the amendment.

Mr Van der LINDEN (*Netherlands*) withdrew Amendment No. 1.

THE PRESIDENT.- The amendment is withdrawn.

We now come to Amendment No. 2, proposed by Mr Van der Linden on behalf of the Political Affairs Committee, which is, in the draft resolution, paragraph 4, delete the words "before the Assembly can close the monitoring procedure under Order No. 508 (1995) on Albania".

I call Mr Van der Linden to support the amendment.

Mr Van der LINDEN (*Netherlands*) moved the amendment.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mrs LENTZ-CORNETTE (*Luxembourg*) said that she wished to move an oral amendment to the amendment.

(*The speaker continued in English*)

I therefore propose to stop after the words, "the monitoring procedure".

THE PRESIDENT.- That is an amendment to the amendment. Does anyone object to it? What is the opinion of Mr Van der Linden? If anyone objects to the proposed oral amendment it will be lost.

Mr Van der LINDEN (*Netherlands*).- I object because it takes one of the essential points away.

THE PRESIDENT.- The oral amendment therefore falls. No one was against the amendment. What is the opinion of the committee?

Mr COLUMBERG (*Switzerland*) said that the committee agreed with the proposed amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 3, proposed by Mr Van der Linden on behalf of the Political Affairs Committee, which is, in the draft resolution, delete paragraph 5 and insert a new paragraph worded as follows:

"The Assembly calls upon the Government and the opposition parties to end the political crisis in the country:

i. the government should provide sufficient guarantees for a normal functioning of the opposition parties;

ii. the opposition should take part in the work of the parliament;

iii. a parliamentary constitutional commission should be set up and composed in accordance with the results of the October 1996 local elections, with a vice-chairman appointed by the opposition and working in close co-operation with the Council of Europe;

iv. a round table convening all political parties in Albania should continue its work in co-operation with the parliamentary commission;

v. a new constitution would open the way for new general elections."

I call Mr Van der Linden to support the amendment.

Mr Van der LINDEN (*Netherlands*) moved the amendment.

THE PRESIDENT.- We now come to Sub-Amendment No. 1 to Amendment No. 3, proposed by Mr Bühler, which is, in the amendment, replace the text of sub-paragraph iv. with the following new text:

"a round table convening all political parties in Albania would make a positive contribution to the political climate."

I call Mr Bühler to support the sub-amendment.

Mr BÜHLER (*Germany*) moved the sub-amendment.

THE PRESIDENT.- Does anyone wish to speak against the sub-amendment?

Mr CONTESTABILE (*Italy*) opposed Sub-Amendment No. 1.

THE PRESIDENT.- What is the opinion of the Rapporteur?

Mr Van der LINDEN (*Netherlands*) said that the committee supported Sub-Amendment No. 1.

THE PRESIDENT.- What is the opinion of the committee on the sub-amendment?

Mr COLUMBERG (*Switzerland* opposed the sub-amendment.

Mr SCHWIMMER (*Austria*), on a point of order, said that the sub-amendment had not been discussed in the committee.

THE PRESIDENT.- I shall now put the sub-amendment to the vote by a show of hands.

The sub-amendment is adopted.

Mr POLLO (*Albania*).- On a point of order. I think that Mr Schwimmer was right. Mr Contestabile and Mr Columberg were wrong in thinking that we were voting on the whole amendment; we were voting on the sub-amendment. Sub-Amendment No. 3 and Sub-Amendment No. 2 are very much the same, with a slight difference of just one word. Sub-Amendment No. 3 is not a different one. I would propose to vote first on either Sub-Amendment No. 2 or Sub-Amendment No. 3 and then -

THE PRESIDENT.- I will take them in the order that I proposed.

We now come to Sub-Amendment No. 2 to Amendment No. 3, proposed by Mr Van der Linden on behalf of the Political Affairs Committee, which is, in the amendment, replace paragraph v. with the following text:

"A new constitution should be prepared and adopted rapidly. All parties represented in parliament should be properly involved. This would also create the necessary framework for future elections taking place in a correct way."

I call Mr Van der Linden to support the sub-amendment.

Mr Van der LINDEN (*Netherlands*) said that Sub-Amendment No. 2 had been tabled because it represented what the Political Affairs Committee had accepted in the past.

THE PRESIDENT.- Does anyone wish to speak against the sub-amendment?

Mr SCHWIMMER (*Austria*) said that he was concerned about the word "rapidly" which was the only difference between the two amendments. Constitutions could not be changed in haste; that went against all norms of procedure in national parliaments. Asking a new parliament to do that was unrealistic.

Mr BÜHLER (*Germany*), on a point of order, referred to the fact that the word used in German "bald", in fact meant "soon", but that it had appeared in the English documentation as "rapidly".

THE PRESIDENT.- We will continue with this sub-amendment. Is this relevant to the Chairman of the Political Affairs Committee?

Mr BÁRSONY (*Hungary*).- To avoid any language problems, I think that I have the authority of the committee to propose the withdrawal of Sub-Amendment No. 2 in favour of Sub-Amendment No. 3. I urge the Assembly to vote for the whole amendment

because to do otherwise would be to vote against our previous resolution, which was clear about the admission of Albania.

THE PRESIDENT.- Mr Van der Linden, do you agree with that?

Mr Van der LINDEN (*Netherlands*).- To gain more support, I agree.

THE PRESIDENT.- We now come to Sub-Amendment No. 3 to Amendment No. 3, proposed by Mr Schwimmer, which is, in the amendment, replace paragraph v. with the following text:

"A new constitution should be prepared and adopted. All parties represented in parliament should be properly involved. This would also create the necessary framework for future elections taking place in a correct way."

I call Mr Schwimmer to support the sub-amendment.

Mr SCHWIMMER (*Austria*).- As I have already explained, the sub-amendment speaks for itself.

THE PRESIDENT.- Does anyone wish to speak against the sub-amendment?

Mr CONTESTABILE (*Italy*) said that he was against the sub-amendment. It referred to future elections in Albania but there was already a legitimate parliament in Albania with dates fixed for elections. It was not the role of the Parliamentary Assembly to call upon a sovereign state to hold elections earlier than its constitution required.

THE PRESIDENT.- What is the opinion of the Rapporteur?

Mr Van der LINDEN (*Netherlands*).- We are in favour. Anyone who votes against will be voting against the resolution. The sub-amendment is in line with the resolution.

THE PRESIDENT.- What is the opinion of the committee? The committee has no opinion because it was not considered by the committee.

I shall now put the sub-amendment to the vote by a show of hands.

The sub-amendment is adopted.

Does anyone wish to speak against Amendment No. 3, as amended?

Mr HAGÅRD (*Sweden*).- All of the amendment's important points are covered in the wording originally proposed by our Rapporteur. Albania needs, above all, a little calmness so that it can go on with the reforms that have been started so successfully. We reject the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by sitting and standing. The exercise will be good for the stomach.

The amendment, as amended, is adopted.

We now come to Amendment No. 4, proposed by Mr Van der Linden, on behalf of the Political Affairs Committee, which is, in the draft resolution, after paragraph 6, add a new paragraph worded as follows:

"The Assembly insists that the remaining commitments are complied with within the agreed time frame."

I call Mr Van der Linden to support the amendment.

Mr Van der LINDEN (*Netherlands*) said that he was in favour of the amendment. He added that if anyone voted against the amendment they would, in effect, run counter to the original resolution to admit Albania to the Council of Europe.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mr COLUMBERG (*Switzerland*) said that the amendment had not been considered by the committee.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We will now proceed to vote on the whole of the draft resolution contained in Doc. 7716, as amended.

The draft resolution, as amended, is adopted unanimously.

The Committee on Legal Affairs and Human Rights has also presented a draft recommendation to which one amendment has been tabled.

We now come to Amendment No. 5, proposed by Mr Van der Linden on behalf of the Political Affairs Committee, which is, in the draft recommendation, paragraph 1, delete the words

"whereby the Assembly has decided to go on monitoring Albania's compliance with its obligations and commitments and in view of Albania's remaining obligations and commitments".

I call Mr Van der Linden to support the amendment.

Mr Van der LINDEN (*Netherlands*).- We accepted Amendment No. 2, and because this is a continuous process it is logical to accept Amendment No. 5.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mr COLUMBERG (*Switzerland*) said that he wished to oppose the amendment. He said that monitoring had to continue; it affected the whole debate, and improvements still needed to be made.

THE PRESIDENT.- I shall now put the amendment to the vote by sitting and standing.

The amendment is adopted.

We will now proceed to vote on the whole of the draft recommendation contained in Doc. 7716, as amended.

The draft recommendation, as amended, is adopted.

6. *Establishment of monitoring committee*

THE PRESIDENT.- The next item of business this afternoon is the debate on the report on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe - the monitoring committee - presented by Mrs Lentz-Cornette on behalf of the Committee on Rules of Procedure (Doc. 7722).

The list of speakers closed at 12 noon today. Twenty-four names are on the list and 39 amendments have been tabled, together with a sub-amendment.

We must conclude the general debate by about 7.30 pm to allow time for the reply and the vote.

I call Mrs Lentz-Cornette to present her report. She has 10 minutes.

Mrs LENTZ-CORNETTE (*Luxembourg*) (Rapporteur of the Committee on Rules of Procedure) said that, since 1989, the Council of Europe had virtually doubled in size. The Council had always been determined not to compromise its fundamental principles which were democracy, respect for human rights and the rule of law. At present, the Assembly procedure for monitoring the obligations of member states was governed by Order No. 508. However, the committees involved in monitoring were now faced with a far bigger work load, which would continue to increase in size. The committee therefore proposed that a new committee be established to oversee monitoring.

There had been a long period of consultation. She detailed the proposed size and composition of the committee. The committee's draft terms of reference were annexed to the draft resolution. Applications to initiate monitoring procedures could come from the general Committees of the Assembly, the Bureau of the Assembly or a group of not less than 10 members of the Assembly representing at least two national delegations and two political groups. The monitoring committee could decide whether it was necessary to refer the issue to another committee for an opinion. If the country being monitored refused to co-operate, the Parliamentary Assembly could adopt a resolution or refuse to recognise the credentials of that country's members. The new committee would increase the authority of the Council of Europe.

It would be necessary to revoke Order No. 508. The monitoring committee would take into account the work already being done under that order and, if possible, it would use the rapporteurs who had already worked on a particular country.

(*Mrs Fischer, President of the Assembly, took the Chair in place of Sir Anthony Durant.*)

THE PRESIDENT.- Thank you. I now call Sir Anthony Durant.

Sir Anthony DURANT (*United Kingdom*) (*on behalf of the European Democratic Group*).- I shall not make a speech now as the points that I want to make are in my amendments. I will take the opportunity to speak when moving the amendments.

THE PRESIDENT.- Thank you, Sir Anthony. I now call Mr Eörsi to speak on behalf of the Liberal, Democratic and Reformers' Group.

Mr EÖRSI (*Hungary*).- I understand that many people in the hemicycle and elsewhere do not like the proposal to create a monitoring committee and, frankly, I can understand their opposition. It is always so when we want to make reforms or structural changes and some people are not interested in such changes. We have experience of this not just in our Assembly but in our home parliaments.

The suggestion is a very good thing, and on behalf of my group, I wish to endorse warmly the recommendation and urge the Assembly to adopt the proposal. I believe the monitoring committee to be a good idea and I shall explain why. The biggest challenge now before us is to monitor all member countries. Colleagues will remember that, when we adopted the new member states - it is not necessary to name any of them right now - we had hectic discussions.

We were told when we voted on the accession of some new countries that we were sacrificing the values of the Council of Europe to project stability towards the new countries. This concern has always been there and we have never been able to convince ourselves that the adoption of certain new countries has been achieved with a good conscience. So, I believe that, if we want to maintain the standards of the Council of Europe, that is task number one ahead of us. We must monitor properly those countries and make sure that all our member countries meet the standards and requirements of the Council of Europe. In that case, it is reasonable to set up a special committee for that purpose, and all the other committees should do their regular job.

There is a further reason why I warmly support this new committee. This is the first time in the history of the Council of Europe that the distribution of seats in a committee is based not on national delegations but on political groups. The Council of Europe is primarily based on political groups. I feel the same way as Liberals from around the world - for example, British or German. They are closer to us than Hungarian socialists or conservatives. That is natural and applies to all of us. I am happy with that way of distributing seats, which will allow me to come to a political decision with my political colleagues. I would like the Assembly to reject the amendment that calls for the Council to return to the old system in the case of the new committee.

I listened carefully to the discussion on Monday and the most significant argument against the new committee concerned the way that legal expertise would be represented

on it. I took the opportunity to check on the legal character of the Committee on Legal Affairs and Human Rights, and what I found was interesting. It turned out that the majority of those on the Committee on Legal Affairs and Human Rights are not lawyers. Its membership includes businessmen, teachers, psychologists, data processors, engineers, even flight engineers, and historians. The chairman of the committee is not a lawyer. I am not speaking against that. I think that the committee did a wonderful job. I am saying that the committee does not have that much in the way of legal experts, and that is true of all the committees, but the Assembly will agree that the recommendations that come to the Assembly are based on well-founded legal arguments. We can ignore the argument about legal expertise. The new monitoring committee will also have many lawyers, who will do a good job.

There is agreement at the moment, but I hope that this kind of fight over prestige between the different committees will come to an end. After we have decided on this issue, I hope that we shall all understand what a serious challenge we are facing, and that the whole Assembly will stand by the new committee and help it to accomplish its tasks so that it helps us to achieve a safe, large, democratic Europe that provides all the freedoms and values of the Council of Europe.

Sir Anthony DURANT (*United Kingdom*).- On a point of order. I understood - perhaps I am wrong - that we decided on the principle of having the committee on Monday, and now we are debating the way in which the committee will operate. With all due respect to my Liberal colleague from Hungary, I must point out that he was talking in favour of having the committee when we have already made that decision.

THE PRESIDENT.- You are right, Sir Anthony.

Mr EÖRSI (*Hungary*).- If the Assembly votes against the resolution, we shall not have the committee. I discussed a couple of details, such as the political distribution of seats - an important point. I know that that goes against your amendment, Sir Anthony. I believe that that was not a proper point of order, but that was not important and we should continue with the debate.

THE PRESIDENT.- Thank you. I think that we have decided on the principle. The next speaker is Mr Bársony of Hungary, on behalf of the Socialist Group.

Mr FRUNDA (*Romania*).- Another Hungarian!

Mr BÁRSONY (*Hungary*) (*on behalf of the Socialist Group*).- We should avoid such remarks about different groups being represented by people from the same country. That has happened before, in the case of Switzerland and the Netherlands, but it is the first time in the case of Hungary. We have the same rights in this Assembly as any other country.

After this long day today, there is no need for further explanation of why we need to set up a monitoring committee to work within the monitoring procedure. Let us remind ourselves of what has happened today and see whether my colleague is right to say that the debate is not on the committee itself but on how to work it. Today, we adopted a resolution to have an urgent debate in the case of two countries on the honouring of their commitments and obligations. For those countries, we appointed two rapporteurs on behalf of the relevant committees. Later, we had another debate and a third rapporteur

spoke on the same issue. We did not have one rapporteur from one committee to express his views. That is ridiculous. We are not following our rules if we do the job in that way.

There is another argument. Until now, monitoring of countries has been done by the three relevant committees. The non-member countries will not exist any more. Problems are caused not only by the abuse of human rights - there are certain social and economic problems as well, and those problems should be monitored by the Assembly. No committee is more relevant than any other in such a process. Therefore, I think that the monitoring committee should be the relevant committee to judge which is the most important territory that should be monitored in this country or that. Abuses may happen in one country on one day and be repeated in another on the next day, but the causes of such abuse are sometimes quite different.

Of course there are some common values. Human rights and legal considerations are fundamentally important and should be kept on the agenda of any monitoring committee.

When we vote in favour of the monitoring committee, we shall be giving the Political Affairs Committee and the Committee on Legal Affairs and Human Rights more opportunities to deal with issues that are more appropriate to the relevant committees. We deal with many European conventions, framework conventions and protocols. For example, the Committee on Legal Affairs and Human Rights does a great deal of work on the general implementation of such measures, but a country-by-country watch is quite different.

At the end of the day, we shall find not a compromise but a good solution, when every committee will deal with the problems identified by the name of the relevant committee - for example the Committee on Legal Affairs and Human Rights and the Political Affairs Committee. I looked at the minutes of the meetings at which those two committees were formed. They were intended to deal with general issues within their remit and not to conduct country-by-country watches. That is the duty of the newly established monitoring committee. Therefore, the Socialist Group voted several times with more than a 90% majority in favour of the excellent report presented by Mrs Lentz-Cornette.

THE PRESIDENT.- Thank you. I now call Mr Columberg.

Mr COLUMBERG (*Switzerland*) said that he was well aware that the new committee was a *fait accompli*; however, he would still like to make some comments. He could not share Mr Bársony's opinion that the current system was not working; in fact he felt that monitoring under Order 508 had worked exceedingly well. He cited Albania as an example. The fact that the three rapporteurs always researched together worked very well, although he had the impression that there were unnecessary differences between the Political Affairs Committee and the Committee on Legal Affairs and Human Rights.

As there were currently 12 monitoring procedures under way, he was concerned that none of those should be interrupted; otherwise it would create a poor impression in the countries concerned. If there were to be a new committee, he must insist that the quality of work did not suffer; the Council of Europe's credibility and *raison d'être* depended on it. He also felt that the new committee should not have a special status but be composed in the usual way. He was in favour of a membership of 65, based on

nationality. He wanted to urge the importance of a seamless transition to the new committee; if not, it would be an irresponsible weakening of the Council of Europe's operations.

Mr BAUER (*Austria*) said that it would be a new and important committee. He wanted to raise the issue of the composition of the committee; why was the existing practice of membership based on nationality to be changed to the basis of political groups? He felt that what was being suggested favoured party politics over the interests of member states. That tendency was also affecting the choice of committee chairmen: instead of committees themselves choosing their chairs, it had moved into the hands of the political groups. It was wrong that such a system should apply to one of the most important committees.

He did not like to compare the Parliamentary Assembly with the European Parliament. However he wanted to point out that, although the European Parliament made greater use of the party political principle, it did not apply where regional or state interests were concerned. There was a recognition that it was wrong and he urged the Assembly to support the amendment, ensuring that existing ways of allocating seats on the basis of nationality should be kept. Anything else would affect the Council of Europe's credibility among its citizens and he was, in any case, unsure how much credibility it had.

THE PRESIDENT.- Thank you. I call Mr Lukin.

Mr LUKIN (*Russia*) said that he considered the discussions to be topical and urgent. The time was now right to explore the depths as well as the widths of the problem. However, he felt that there were very experienced people in the other committees and there was a danger that experience could be lost. There was a need to keep such experienced people on board. He was concerned about the emerging trend whereby everybody was carrying out monitoring on everybody else. There was a danger that their authoritative body might divide into "goodies and baddies" which would get them nowhere. He accepted that there were still problems with monitoring in Russia. Efforts should be made across the board; all new eastern and central European countries should contribute. Splits and accusations should be avoided.

He largely supported the transformation of the Committee on Relations with European Non-Member Countries. The new committee should have 65 members and all national delegations should be represented. He understood that a different decision had already been taken and believed that such decisions should in future be taken openly. Russia wished to be more actively involved.

He said that, now that he understood the workings of the Assembly, he wished to withdraw Amendment No. 18 and associated amendments. He wished to register his suspicion of the word "special"; in Russia he said that the word was used for special schools, or even special cemeteries. People were even prepared to die early for the privilege of being buried in special cemeteries.

THE PRESIDENT.- Thank you. The next speaker on the list is Mr Hagård.

Mr HAGÅRD (*Sweden*).- Accession to the Council of Europe is certainly mainly a political matter but respect for the commitments and obligations is predominantly a legal and human rights issue. Whereas in accession procedures the Political Affairs Committee

played a leading role, and rightly so, the Committee on Legal Affairs and Human Rights was naturally given a leading role in the monitoring procedures. That was codified in Order No. 508 adopted by the Assembly as late as 1995. After one and a half years, the work has now started to bear fruit and I fully agreed with Mr Jurgens when he said the other day that the whole system had functioned very well.

Indeed, we have had rapporteurs not only from the Committee on Legal Affairs and Human Rights but from the Political Affairs Committee and the Committee on Relations with European Non-Member Countries and this has been some kind of guarantee of carrying out objective and positive work.

The Committee on Legal Affairs and Human Rights now has a wealth of experience in the matters under consideration. I must stress that there is also an interface between all the questions raised during the monitoring procedure and the normal work of the committee, which includes reporting on such matters as the rights of minorities, European conventions and other Council of Europe conventions, the death penalty, measures to dismantle totalitarian systems, and many others.

Stripping the Committee on Legal Affairs and Human Rights and the other two committees concerned of their responsibilities by creating a special committee will, I fear, weaken the whole monitoring system. I do not however oppose the proposed new monitoring system if that is the Assembly's wish, although it may have been wiser to send back the whole question to the Committee on Rules of Procedure in order to get a better proposal. Like the speaker before me, I very much fear that the work may become politicised.

It might be too late to stop the procedure leading to the creation of a special monitoring committee of the Assembly. The Committee on Legal Affairs and Human Rights has proposed two important amendments which I hope the Assembly will accept.

The first amendment, No. 2, states that, in respect of all monitoring procedures, the Committee on Legal Affairs and Human Rights and the other committees involved are asked for their opinion. That will make it possible to avoid future conflicts, especially in the border zones.

The second of those amendments, No. 3, states that there should be a six-month transitional period in which the Committee on Legal Affairs and Human Rights and other committees may finish their monitoring work in respect of certain countries. Mr Columberg mentioned that 36 rapporteurs were now engaged on the work and it would be a shame if they could not finish it. If we take that action, the work will not end abruptly and there may be a smoother take-over.

I am not too optimistic, but I can assure you, Madam President, and all my colleagues that I and all the members of the Committee on Legal Affairs and Human Rights will do their very best to make the monitoring procedure fruitful in future.

THE PRESIDENT.- Thank you, Mr Hagård. The next speaker on the list is Mrs Terborg.

Mrs TERBORG (*Germany*) said that there should be no objections to the Council of Europe questioning its institutions. The proposed new committee was a good idea. She

doubted, however, that it would have the strength to ensure that human rights were given higher priorities by member states. It was regrettable that the expertise of existing rapporteurs might be wasted. She suggested that the new committee should produce interim reports so that it did not become a secret committee. Every country should be represented on the committee and it was also important for opposition parties to be represented. The committee had to be able to work with other committees, but too much discussion would interfere with the need to be able to intervene quickly. The Council of Europe had to continue to be a bulwark of human rights at a difficult time. If it abandoned that role, who would protect the people of Europe?

THE PRESIDENT.- Thank you, Mrs Terborg. The last speaker on the list is Mr Giannattasio.

Mr GIANNATTASIO (*Italy*) was disappointed that the committees of the Parliamentary Assembly had been approved before the proposal had been debated. Members were faced with a *fait accompli*. The proposed committee would have to consist of supermen who were experts in the fields of all the other committees. That was why he was against the proposal.

THE PRESIDENT.- I must now interrupt the list of speakers.

Mr VISHNYAKOV (*Russia*) rose on a point of order. He said that he was above Mr Giannattasio on the list of speakers. Why had he not been called to speak?

THE PRESIDENT.- I was told that there was an agreement. We tried to make sure that there were two speakers from each political group so that there was a fair balance. That is the reason. I am sorry.

I must interrupt the list of speakers.

I remind you that members who are on the list and present in the Chamber but who are not able to speak may submit their speeches in writing in a final and legible form at the end of the debate for publication in the Official Report.

I call Mrs Lentz-Cornette, Rapporteur, to reply. She has seven minutes.

Mrs LENTZ-CORNETTE (*Luxembourg*), replying to the debate, confirmed that there were already two countries, the Czech Republic and "the former Yugoslav Republic of Macedonia, which were being monitored. She drew attention to the potential problem of members not attached to political groups who would otherwise not be represented on the committee. Mr Lukin had suggested that the Council of Europe should not be broadened but should be deepened. She was of the opinion that a deepening of its sphere of influence was necessary. On the time for response by states which were being monitored, she was of the opinion that the committee should report to the Assembly on those countries that did not co-operate within the timescale.

THE PRESIDENT.- The Committee on Rules of Procedure has presented a draft resolution to which 39 amendments and one sub-amendment have been tabled. They will be taken in the following order: Nos. 17, 15, 18, 19, 9, 13, 20, 14, 21, 4, 22, 23, 24, 25, 26, 27, 28, 30, 29, 31, 32, 6, 12, 7, 8, 39, 33, 3 and sub-amendment, Nos. 34, 10, 1, 35, 36, 16, 37, 11, 2, 38, 5. Amendment No. 15 will fall if Amendment No. 17 is adopted.

Amendment Nos. 20, 14, 21, 4, 22, 23 and 24 will fall if Amendment No. 13 is adopted. Amendment Nos. 14, 21 and 4 will fall if Amendment No. 20 is adopted. Amendment No. 4 will fall if Amendment No. 14 or No. 21 is adopted. Amendment Nos. 21 and 4 will fall if Amendment No. 14 is adopted. Amendment No. 23 will fall if Amendment No. 22 is adopted. Amendment No. 26 will fall if Amendment No. 25 is adopted. Amendment No. 28 will fall if Amendment No. 27 is adopted. Amendment No. 10 will fall if Amendment No. 39 is adopted. Amendment No. 7 will fall if Amendment No. 12 is adopted. Amendment Nos. 11 and 2 fall if Amendment No. 37 is adopted.

This gives me the opportunity to give hearty thanks to the Table Office which has worked very hard to deal with all those amendments.

We now come to Amendment No. 17, proposed by Mr Dzasokhov, which is, in the draft resolution, leave out paragraph 3.

I call Mr Dzasokhov or Mr Kuznetsov to support the amendment.

They are not here, so the amendment is not moved.

We now come to Amendment No. 15 proposed by Mr Mészáros, which is, in the draft resolution, paragraph 3, delete the following words:

"and that the monitoring procedure established by Order No. 508 has created a considerable workload for the committees concerned."

I call Mr Mészáros to support the amendment.

Mr MÉSZÁROS (*Hungary*).- The part of paragraph 3 of the draft resolution that we would like to delete misleads the reader about the real reasons for setting up the new monitoring committee. All of us know that it is not the so-called workload of the committees concerned that has led to the change in the monitoring structure, and the Committee on Legal Affairs and Human Rights has always been ready to take the burden.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr EÖRSI (*Hungary*).- The Council of Europe will face more monitoring obligations in the future. I believe that if we want to meet the challenges and respond to the issues, we must unload some of the burden from the different committees - including the Committee on Legal Affairs and Human Rights. It would be very wise to create this new monitoring committee.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*) (*Rapporteur of the Committee on Rules of Procedure*).- The committee is against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 18 proposed by Mr Lukin, which is, in the draft resolution, paragraph 4, delete the words "to constitute an", and insert the following:

"to reorganise the Committee on Relations with European Non-Member Countries into".

I call Mr Averchev.

Mr AVERCHEV (*Russia*) said that he would withdraw the amendment for the reasons given earlier by Mr Lukin.

THE PRESIDENT.- The amendment is withdrawn.

We now come to Amendment No. 19, proposed by Mr Dzasokhov, which is, in the draft resolution, paragraph 4, before the words "Member States" insert "all".

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*) withdrew the amendment.

THE PRESIDENT.- So the amendment is withdrawn.

We now come to Amendment No. 9 proposed by Sir Anthony Durant, which is, in the draft resolution, after paragraph 4, insert a new paragraph worded as follows:

"The monitoring committee shall be responsible for verifying the fulfilment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member states upon their accession to the Council of Europe."

I call Sir Anthony Durant to support the amendment.

Sir Anthony DURANT (*United Kingdom*).- I tabled the amendment because the responsibilities of the monitoring committee need to be clearly laid out in the resolution. I am keen on the idea and I think it will be a useful organ of the Council of Europe. Although the Committee on Legal Affairs and Human Rights has done a remarkable job, we should reduce the workload. I am worried that sometimes the committee spends too much time on monitoring duties. This is a good step forward and I have laid down the expected duties of the monitoring committee. This was an idea of Lord Finsberg's which has now been born. I hope that it will survive and grow into a strong child.

THE PRESIDENT.- Does anyone wish to speak against the amendment.

That is not the case.

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*) said that the committee was in favour of the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 13, proposed by Mr Columberg, which is, in the draft resolution replace paragraphs 5, 6 and 7 with the following paragraph:

"This committee, whose terms of reference are appended, shall be composed of 65 members, to be appointed in accordance with Rule 43, paragraph 2, of the Rules of Procedure."

and amend paragraph 13.i. as follows: "... number of seats: 65".

I call Mr Columberg to support the amendment.

Mr COLUMBERG (*Switzerland*) said that it was not apparent why the thirteenth committee should be any different from the other committees. It would be most deleterious to politicise the monitoring exercise. He would urge that the committee should have 65 members, appointed on the same basis as members of other committees.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr BÁRSONY (*Hungary*).- Monitoring is not about the interests of any one country but about the interests of the European Community. I do not know whether the Hungarian Parliament would be monitoring Switzerland, or vice versa. The proposal is not based on how many representatives from a country sit in this Assembly or in a committee.

Mrs Terborg said that perhaps the bigger countries should have two representatives - one from the opposition party and one from the government. But what about the small countries? That is clear discrimination. We may be concerned about the interests of the bigger countries, but we must give an opportunity to the countries that are to be monitored to take part in the committee.

In the original version, we said that we need to give the relevant countries an opportunity to take part. Otherwise, there will be a political imbalance among the countries which are carrying out the monitoring. This is not a political question.

When the committee visited Albania, the situation was different from the present and monitoring was clearly a political issue at that time. If a country appoints two or three representatives to the committee, we must not deny other countries the right to say that they want a balance in representation. But if we appoint members from the different political corners of the Assembly, it will give every political party a balanced position and a representation that is more or less the same as we have in the Assembly. That is a very good reason to try something new.

The duties of the monitoring committee will be totally different from those of the other 12 committees, which deal with general issues. This committee must deal with a specific situation, and there are many arguments in favour of the original version.

THE PRESIDENT.- What is the opinion of the committee.

Mrs LENTZ-CORNETTE (*Luxembourg*) said that the committee was against the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 20, presented by Mr Lukin, which is, in the draft resolution, delete paragraph 5 and insert the following text:

"The Monitoring Committee shall have 65 seats and shall act as a "large" Committee in accordance with the Assembly's Rules of Procedure as amended".

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw it.

THE PRESIDENT.- We now come to Amendment No. 14, presented by Sir Russell Johnston, which is, in the draft resolution, paragraph 5, first sentence, replace "40 members" by "65 members".

In the same paragraph, replace the second sentence by the following text:

"In derogation of Rule 43, paragraph 4, there shall be no alternates for the committee."

In the draft resolution, paragraph 7, replace "40 members" by "65 members" and delete "(and 40 alternate)".

In the draft resolution, paragraph 13.i., replace "(number of seats: 40)" by "number of seats: 65."

I call Sir Russell Johnston to support the amendment.

Sir Russell JOHNSTON (*United Kingdom*).- In this case, I have the advantage that, at the bottom of the amendment sheet, is an explanatory note, which contains all that is necessary for me to say. Clearly, the difficulty of matching alternates of the same nationality with members of the committee means that it would be preferable to have no alternates. Consequently, there is immediately a case for increasing the size of the committee from 40 to 65.

Incidentally, I draw attention to the fact that there is an error in the allocation of seats to political groups. The Socialist should be 21, not 20 and the EPP should be 17 and not 18.

THE PRESIDENT.- Thank you. Does anyone wish to speak against the amendment? That is not the case.

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is for.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 22, proposed by Mr Lukin, which is, in the draft resolution, leave out paragraph 6.

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw it.

THE PRESIDENT.- We now come to Amendment No. 23, proposed by Mr Dzasokhov, which is, in the draft resolution, paragraph 6, delete the words "political groups" and insert the words "national delegations". In the second sentence after word "balance" insert the words "of the political groups".

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw it.

THE PRESIDENT.- We now come to Amendment No. 24, proposed by Mr Dzasokhov, which is, in the draft resolution, leave out paragraph 7.

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw it.

THE PRESIDENT.- We now come to Amendment No. 25, proposed by Mr Averchev, which is, in the draft resolution, paragraph 8, delete the words "preparing a written opinion to the Bureau on whether a monitoring procedure should be opened or not" and insert the words:

"implementation of the monitoring procedure".

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- said that the amendment reflected his belief that monitoring should extend to all Council of Europe states.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr EÖRSI (*Hungary*).- I believe that all my colleagues are hesitating because it is difficult to work out what the amendment does in that some words are deleted and others are inserted. If I understand it properly, the purpose of the amendment is to change a system which enjoyed an overwhelming consensus. In the resolution, once monitoring has started, the co-rapporteurs report to the Bureau. As I understand it, the amendment would change that, so there is no report to the Bureau. Instead, the committee should decide on the implementation of the monitoring procedure. We feel that the start of the monitoring procedure should be based on a much wider consensus. The report should go to the Bureau and the Bureau can then decide and, of course, according

to the original plan, anyone can appeal to the Assembly. The original proposition was more democratic and that is why I oppose the amendment.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 26, proposed by Mr Averchev, which is, in the draft resolution, paragraph 8, after the words "the monitoring procedure" add the following:

"with respect to a certain problem, group of countries or implementation of a particular convention concluded with the Council of Europe".

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw it.

THE PRESIDENT.- We now come to Amendment No. 27, proposed by Mr Lukin, which is, in the draft resolution, leave out paragraph 9.

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw it.

THE PRESIDENT.- We now come to Amendment No. 28, proposed by Mr Averchev, which is, in the draft resolution, in the first sentence of the paragraph 9, delete the word "two" and the words "unless one or both are already represented on the committee". I call Mr Vishnyakov to support the amendment.

Mr VISHNYAKOV (*Russia*) said that the purpose of the amendment in deleting the word "two" was to make the resolution more workable. He said that, otherwise, it would be difficult to implement in Russia.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr EÖRSI (*Hungary*).- Should the Assembly accept this amendment, the resolution would sound like this, "when the monitoring procedure is initiated, members of the parliamentary delegation of the member state concerned should be invited". That means that every member of the delegation should be invited and all of us here know what the consequence of that would be. I recommend rejection of the amendment and urge all member countries to have both a government and an opposition in their home parliaments.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come Amendment No. 30, presented by Mr Lukin, which is, in the draft resolution, after paragraph 9, insert a new paragraph as follows:

"During each ordinary session the monitoring procedure shall be undertaken with respect to 10 member states (in the order of the French alphabet) so that each country will be monitored every four years. The monitoring procedure shall last for a period of one ordinary session or one year"

I call Mr Averchev.

Mr AVERCHEV (*Russia*).- I withdraw the amendment.

THE PRESIDENT.- We now come to Amendment No. 29, proposed by Mr Averchev, which is in the draft resolution, in the first part of paragraph 10, leave out "for which a monitoring procedure is initiated" and insert the words "in order to implement monitoring procedure".

I call Mr Averchev.

Mr AVERCHEV (*Russia*).- I withdraw the amendment.

THE PRESIDENT.- We now come to Amendment No. 31, presented by Mr Shishlov, in the draft resolution, after paragraph 10, add a new paragraph:

"At each stage of the monitoring procedure on a particular country reports prepared by the committee should be submitted to respective national delegations for commentary. Each national delegation has the right to insist on inclusion of its written commentary in the report before its official distribution. This commentary should be prepared within three months. During the debates on the issue of honouring of the obligation by a particular country, the national delegation of this country should be invited. All members of the national delegation should be given an opportunity to present their views."

I call Mr Shishlov to support the amendment.

Mr SHISHLOV (*Russia*) said that the amendment aimed to allow delegations to express an opinion after drafting by the committee. He said that the opportunity to amend comments would give more chance to delegates from opposition parties.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr LAAKSO (*Finland*).- If we accept the proposal it means that there is a mechanism for postponing because the commentary from the national parliament would be prepared within three months, but at the same time that commentary would be necessary at each stage of the monitoring procedure. It means that we would be in an endless process of asking the opinion of the national parliamentary delegation.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is against the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 32, presented by Mr Lukin, in the draft resolution, at the beginning of paragraph 11, insert the following:

"The monitoring procedure should be aimed at helping member countries to fulfil their obligations. The relevant recommendations to the Committee of Ministers and proposals on measures to be undertaken for this purpose by the Assembly should be included in the report prepared by the Committee."

Mr AVERCHEV (*Russia*).- I withdraw the amendment.

THE PRESIDENT.- We now come to Amendment No. 6, presented by Mr Jansson, which is, in the draft resolution, paragraph 11, after the words "by adopting a resolution" insert the words: "and/or a recommendation".

I call Mr Jansson to support the amendment.

Mr JANSSON (*Finland*).- This strengthens the procedure by adding "and/or a recommendation" to the words in paragraph 11 of the existing resolution to give alternatives.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- We are in favour of the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 12, proposed by Sir Russell Johnston, which is, in the draft resolution, paragraph 11, after the words "at the beginning of its next ordinary session" insert the words:

"or by the annulment of ratified credentials in the course of the same ordinary session".

I call Mr Eörsi to support the amendment.

Mr EÖRSI (*Hungary*).- We consider our amendment to be more of a technical one rather than a substantive one. The provision applies to sanctions. If we stick to the original text, sanctions could be imposed on a certain country once a year only, which is

not the purpose of our exercise. We are therefore proposing that sanctions could be imposed also in the course of the ordinary session.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- We are in favour of the amendment.

THE PRESIDENT.- I shall put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 8 proposed by Mr Bindig, which is, in the draft resolution, after paragraph 11, insert a new paragraph worded as follows:

"The Assembly instructs its Monitoring Committee to report to it once a year on the general progress of the monitoring procedures, and at least once every two years on each country being monitored."

I call Mr Bindig to support the amendment.

Mr BINDIG (*Germany*) said it should be made clear that the monitoring committee ought to report to the whole Assembly every year. It should also make regular reports to the country being monitored.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*) said that the committee was against.

THE PRESIDENT.- I shall now put the amendment to the vote by sitting and standing.

The amendment is adopted.

We now come to Amendment No. 39, presented by Sir Russell Johnston, which is, in the draft resolution, delete the first sentence of paragraph 12, and at the end of paragraph 14, add the following new sentence, worded as follows:

"It shall enter into force on the last day of the second part of the 1997 Assembly session (25 April 1997). In the meantime and as from the adoption of the present resolution no monitoring procedure may be initiated on the basis of Order No. 508."

I call Sir Russell Johnston to support the amendment.

Sir Russell JOHNSTON (*United Kingdom*).- I am in the very happy position that the hard-working apparatchik who prepared the papers clearly reached the conclusion

that I was not very competent to deal with such matters, and therefore a careful explanatory note has been appended in each case. I appreciate that greatly.

The intention of the amendment is already quite clear. We accept absolutely that the monitoring activities in which the Committee on Legal Affairs and Human Rights are already involved must be completed. Therefore there is a period of time to enable that to be done, but we strongly feel that if we start initiating new procedures according to the old rules in the transition period between now and 25 April that will confuse things considerably. Therefore the amendment seeks to ensure that no monitoring procedure may be initiated on the basis of Order No. 508 as from the adoption of the present resolution.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is in favour of the amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 33, proposed by Mr Lukin, which is, in the draft resolution, paragraph 12, in the last sentence after the words "shall be", insert the words "concluded and". Delete the words "concluded by it" at the end of the sentence.

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*) moved Amendment No. 33.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 3, proposed by Mr Hagård on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, at the end of paragraph 12, add the following words:

"following a six month transitory period during which the Committee on Legal Affairs and Human Rights may wrap up its monitoring procedures in accordance with Order No. 508 and gradually transfer them to the monitoring committee."

I call Mr Hagård to support the amendment.

Mr HAGÅRD (*Sweden*).- As I have already said, I moved Amendments Nos. 3 and 2. Amendment No. 3 concerns the need for a transitionary period of at least six months so that it will be possible to finish all the work that is now going on. If we do not have that transitionary period, we shall waste human capital and knowledge. Another difficulty is that monitored countries are not always interested in being interviewed by new rapporteurs, so a transitionary period of at least six months would allow the last report to be dealt with at the June session.

THE PRESIDENT.- We now come Sub-Amendment No. 1 to Amendment No. 3, proposed by Mr Clerfayt and Mr Contestabile, which is, at the end of the amendment, add the following new text:

"In all cases the monitoring committee shall co-opt the rapporteurs appointed by the Committee on Legal Affairs and Human Rights under Order No. 508 to advise it until the procedure begun under Order No.508 is completed."

I call Mr Clerfayt or Mr Contestabile to support the sub-amendment. As they are not here, the sub-amendment falls.

Does anyone wish to speak against the amendment?

Mr SINKA (*Latvia*).- This amendment serves no useful purpose. We might as well say that there should be a transitionary period of a year or two years before all those capable people can switch over to the monitoring committee and start work. The period until the end of April is quite enough, otherwise the whole proposal is nonsense. We will have created a committee that cannot get on with the work.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is against.

THE PRESIDENT.- I shall now put to the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 34 proposed by Mr Averchev, in the draft resolution, paragraph 13, sub-paragraph i., delete the words "at the end of". After the words "number of seats" delete "40" and insert "65".

Delete sub-paragraph ii.

I call Mr Averchev.

Mr AVERCHEV (*Russia*).- I withdraw the amendment.

THE PRESIDENT.- We now come to Amendment No. 1 proposed by Mrs Maximus, which is, in the draft resolution "Terms of reference of the Assembly committee on the

honouring of obligations and commitments by member states of the Council of Europe (monitoring committee)", before paragraph 1, insert the following as a preamble:

"Drawing attention to the basic values which are the Council of Europe's *raison d'être*, particularly pluralist parliamentary democracy, which is a political, legal and cultural system based on respect for human rights, the rule of law and everyone's right to take part in public life and which entails the active commitment of each individual and the government to values such as equality, social integration, tolerance and respect for difference."

I call Mrs Maximus to support the amendment.

Mrs MAXIMUS (*Belgium*) moved Amendment No. 1.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Sir Anthony DURANT (*United Kingdom*).- This amendment duplicates my earlier Amendment No. 9, which has been agreed by the Assembly.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*) said that the committee, while in favour of the amendment, agreed that it duplicated Sir Anthony Durant's amendment.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is adopted.

We now come to Amendment No. 35 proposed by Mr Averchev, which is, in the draft resolution, "Terms of reference of the Assembly Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe", delete paragraph 1, and insert a new paragraph worded as follows:

"The monitoring procedure should be aimed at helping member countries to fulfil their obligations assumed within the Council of Europe as well as obligations related to the conventions concluded within the Organisation to which they are parties. The committee works out the recommendations to the Committee of Ministers and proposals on measures to be undertaken for this purpose by the Assembly."

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*) said that the amendment sought to underline that the monitoring procedure was designed to assist countries.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr EÖRSI (*Hungary*).- At first sight, the amendment appears to soften the previous text. I heard what my distinguished colleague was saying and, in a way, I agree with him, but he confuses protocol terms with legal terms. Of course it is our aim to help all member states to meet the requirements but when we draft terms of reference or

terms of procedure we must be more precise. It is proper to say that they are commitments and fulfilments and we must stick to those words in order to preserve our values.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- The committee is against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come Amendment No. 36 proposed by Mr Averchev, which is, in the draft resolution, "Terms of reference of the Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe", delete paragraph 2.

I call Mr Averchev to support the amendment.

Mr AVERCHEV (*Russia*).- I withdraw the amendment.

We now come to Amendment No. 16, proposed by Mr Speroni, which is, in the draft resolution, "Terms of Reference of the Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe", replace Article 2.ii. with the following text:
"not less than ten members through the tabling of a motion for a resolution or recommendation"

I call Mr Speroni to support the amendment.

Mr SPERONI (*Italy*) said that the amendment sought to modify and streamline the monitoring procedure.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr BINDIG (*Germany*) opposed Amendment No. 16.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- Against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 37, proposed by Mr Lukin.

It is not moved.

We now come to Amendment No. 11, proposed by Sir Anthony Durant, which is, in the draft resolution, "Terms of reference of the Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (monitoring

committee)", paragraph 3, delete the first sentence and insert a new text worded as follows:

"Applications are to be considered by the monitoring committee which shall appoint two co-rapporteurs for the purpose of preparing a written opinion on whether or not to initiate a monitoring procedure. This opinion, after adoption by the committee, shall be submitted to the Bureau."

I call Sir Anthony Durant to support the amendment.

Sir Anthony DURANT (*United Kingdom*).- The amendment differs from the current sentence. Like Sir Russell Johnston, I too have had advice from apparatchiks. The explanatory note says, "The amendment differs from the current sentence in the following respects ... it removes the current implication that applications by the committee itself do not require the preparation of a written opinion ... it clarifies that the committee appoints the co-rapporteurs ... it clarifies the purpose of the written opinion." It clarifies the system.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

That is not the case.

What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- We are against the amendment because the provisions are already contained in Amendment No. 9.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 2, proposed by Mr Hagård, on behalf of the Committee on Legal Affairs and Human Rights, which is, in the draft resolution, "Terms of reference of the Assembly Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)", paragraph 3, after the words "to the Monitoring Committee for report" insert the words:

"and to the Committee on Legal Affairs and Human Rights for opinion."

and delete the words "when strictly necessary on the committee(s)" and insert the words:

"on the other committee(s)".

I call Mr Hagård to support the amendment.

Mr HAGÅRD (*Sweden*).- Even if the Assembly does not want the Committee on Legal Affairs and Human Rights to have the main responsibility for monitoring in future, it would be unwise not to use the competence to be found there. As I stressed earlier, there is an interface between the important monitoring work and the ordinary work done within the committee on different conventions, such as those on death penalties and

minorities. That is why we should introduce a rule stating that such matters should be referred to the Committee on Legal Affairs and Human Rights and other committees for their opinion.

THE PRESIDENT.- Does anyone want to speak against the amendment?

Sir Anthony DURANT (*United Kingdom*).- This will reopen the present complicated system. The Committee on Legal Affairs and Human Rights will be consulted, then the matter will move on to the Political Affairs Committee and so on. It will open the doors and I believe it is the last gasp of the Committee on Legal Affairs and Human Rights.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- Against.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We now come to Amendment No. 38, proposed by Mr Lukin.

It is not moved.

We now come to Amendment No. 5, proposed by Mrs Err, which is, in the draft resolution, "Terms of reference of the Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (monitoring committee)", at the end of paragraph 9, add the following words:

"non-governmental and other organisations."

I call Mrs Err to support the amendment.

Mrs ERR (*Luxembourg*) said that the amendment spoke for itself; there was a need to spell out the use that could be made of non-governmental organisations in monitoring.

THE PRESIDENT.- Does anyone wish to speak against the amendment?

Mr BÁRSONY (*Hungary*).- With all due respect to my colleagues, I think there is a question to be asked. How many non-governmental organisations should be involved in the procedure? Can you explain how many non-governmental organisations there are in a country such as Russia? The measure cannot be implemented. If some of the non-governmental organisations are consulted and many of them are not, all the rapporteurs can be accused. If we give instructions to the rapporteurs and committees that they cannot implement 100% or even 50%, we shall provoke more stormy debates.

THE PRESIDENT.- What is the opinion of the committee?

Mrs LENTZ-CORNETTE (*Luxembourg*).- We were against for the same reasons as Mr Bársony.

THE PRESIDENT.- I shall now put the amendment to the vote by a show of hands.

The amendment is rejected.

We will now proceed to vote on the whole of the draft resolution contained in Doc. 7722, as amended.

The draft resolution, as amended, is adopted.

The Political Affairs Committee is holding a meeting in Room 9 on Bosnia-Herzegovina's new parliamentary institutions to which all members are invited to join the discussion.

7. *Date, time and orders of the day of the next sitting*

THE PRESIDENT.- I propose that the Assembly hold its next public sitting tomorrow at 10 am with the orders of the day which were approved on Monday.

Is that agreed?

The sitting is closed.

(*The sitting was closed at 8.40 pm.*)

CONTENTS

1. Minutes of proceedings

2. Organisation of debates

3. Situation in the Federal Republic of Yugoslavia - resumed debate

Draft resolution (Doc. 7744), as amended, adopted

4. Execution of death sentences in Russia and Ukraine

Joint debate upon reports (Docs. 7746 and 7745) presented by Mrs Wohlwend on behalf of the Committee on Legal Affairs and Human Rights

Speakers:

Mr Bühler (Germany)
Mr Carvalho (Portugal)
Mr Solé Tura (Spain)
Mrs Severinsen (Denmark)
Mr Prusak (Russia)
Mr Kostytsky (Ukraine)
Mrs Holand (Norway)
Mr Magnusson (Sweden)
Mr Yavorivsky (Ukraine)
Mr Fyodorov (Russia)
Mr Saakashvili (Special guest from Georgia)
Mr Contestabile (Italy)
Mr Oliynik (Ukraine)
Mr About (France)

Amendment Nos. 1, as amended, 6, adopted

Draft resolution (Doc. 7746), as amended, adopted

Amendment No. 9 adopted

Draft resolution (Doc. 7745), as amended, adopted

5. Honouring of obligations and commitments by Albania

Presentation of report (Doc. 7716) by Mr Columberg on behalf of the Committee on Legal Affairs and Human Rights

Presentation of opinions by Mr Van der Linden on behalf of the Political Affairs Committee (Doc. 7738) and by Mr Ruffy on behalf of the Committee on Relations with European Non-Member Countries

Speakers:

Mr Brunetti (Italy)
Mr Bühler (Germany)
Mr Jaskiernia (Poland)
Mr Mignon (France)
Mr Spahia (Albania)

Amendment Nos. 2, 3, as amended, 4 adopted

Draft resolution (Doc. 7716), as amended, adopted

Amendment No. 5 adopted

Draft recommendation (Doc. 7716), as amended, adopted

6. Establishment of monitoring committee

Presentation of report (Doc. 7722) by Mrs Lentz-Cornette on behalf of the Committee on Rules of Procedure

Speakers:

Mr Eörsi (Hungary)
Mr Bársony (Hungary)
Mr Columberg (Switzerland)
Mr Bauer (Austria)
Mr Lukin (Russia)
Mr Hagård (Sweden)
Mrs Terborg (Germany)
Mr Giannattasio (Italy)

Amendment Nos. 9, 14, 6, 12, 8, 1 adopted

Draft resolution, as amended, adopted

7. Date, time and orders of the day of the next sitting