COUNCIL OF EUROPE / CONSEIL DE L'EUROPE
Parliamentary Assembly
Assemblée parlementaire

Council of Europe / Conseil de l'Europe
F-67075 Strasbourg cedex (France)
Tél :+33/ 3 88 41 20 00
Fax : +33 / 3 88 41 27 76
Email : pace@coe.fr
http://stars.coe.fr/

Confidential

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Committee on the honouring of obligations and commitments by member States of the Council of Europe

Draft minutes
of the meeting held in Strasbourg on 5 November 1998

Mr Sole Tura, Vice-Chair, opened the meeting at 9.30 am and welcomed the participants.

1. AGENDA AS/Mon (1998) OJ 10

The draft agenda was adopted.

2. MINUTES AS/Mon (1998) PV 09, part I and part II

The draft minutes of the meetings held in Strasbourg on 21 and 24 September 1998 were approved.

3. UKRAINE
co-rapporteurs: Mr Kelam and Mrs Severinsen
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The Chairman recalled that, following a fact-finding visit from 8 to 10 December 1997, the co-rapporteurs had drawn up a preliminary draft report which the Committee transmitted to the national parliamentary delegation on 29 January 1998. The "executive bodies" of Ukraine presented their comments on 19 August 1998. A second fact-finding visit took place from 15 to 18 September 1998. In the light of the comments of the Ukrainian "executive bodies" and the conclusions of this second visit, the co-rapporteurs revised their draft report which was now in the files. It was proposed to consider solely the explanatory memorandum at the present meeting and adopt the preliminary draft resolution and recommendation at the next meeting on 26 November 1998.

In the absence of Mr Kelam, Mrs Severinsen, co-rapporteur, presented their draft report. She said that the situation in Ukraine was an example of how difficult a transition could be for a country. Ukraine had succeeded in solving some problems linked to its very existence as an independent state, including the adoption of a Constitution. But the problem of implementing the latter remained. In view of the current economic crisis, neither the authorities nor the people of Ukraine seemed to consider human rights issues as a major concern. Nevertheless, respect for the rule of law in the country would probably favour foreign investments. Parliament and the Executive put the blame on each other for the current situation. Following the elections of March 1998, parliamentarians felt under pressure by the Executive and thus insecure. Minority problems were mostly of an economic nature, with the exception of the situation of Crimean Tartars. With regard to the death penalty, according to official sources, no executions had taken place since 11 March 1997 and secrecy had been lifted, but there were unofficial rumours to the contrary. It was regrettable that comments on the preliminary draft report were submitted by the government and not by parliament. During their visit in September 1998, the co-rapporteurs transmitted their preliminary draft report to all political factions in Parliament asking them for comments. So far, no such comments have been received. Members of the Committee were invited to give their comments on the proposed preliminary draft resolution and recommendation.

Mr Barsony noted that, if the facts exposed by the co-rapporteurs were true – which he had no reason to doubt – the Committee should take action and propose concrete measures for non-compliance with commitments by Ukraine. The draft recommendation should be further substantiated and stronger wording should be used for both the recommendation and resolution. It was worth noting that, with regard to the commitment to ratify Protocol N° 6 to the European Convention on Human Rights on the abolition of the capital punishment, the three-year deadline set in the Assembly's Opinion on Ukraine's accession would expire in some days, namely on 9 November 1998. This problem was not linked to lack of resources but of goodwill. The mandate of the Ukrainian parliamentary delegation should be suspended until ratification of Protocol N° 6.

Mr Muehlemann, supported by Mrs Poptodorova, Mr Valkeniers and Mrs Severinsen, deeply regretted the absence of the two Ukrainian members of the committee. Some commitments had been honoured fully or partly. The report should state the political reasons for which other commitments had not been honoured. In his opinion, the main reason was the lack of political stability, something that did exist in the Russian Federation.

Mrs Poptodorova expressed her concern about the next step that the Committee should take in respect of Ukraine. As a representative of a country under monitoring she raised the point of principle that the public in the countries concerned was not aware of what monitoring was about. Co-rapporteurs met the authorities of the country but there was no public debate on the issues raised. Parliamentarians from these countries had the choice to either defend Council of Europe principles, including monitoring and pay the price in their countries, or be more flexible with Council of Europe principles and thus at ease with their electorate. Members of the Committee as individual politicians and the Committee as such should act to remedy this situation. For instance, in Bulgaria, the Assembly's information report on Bulgaria's monitoring had been discussed in parliament and thus became a public issue. With regard to European Parliament which was mentioned in the preliminary draft resolution, she recalled that at the Quadripartite meeting of October last, it had been agreed that documents of the monitoring procedure would be taken into account in the accession procedure of a state to the European Union.

Mr Jaskiernia, supported by Mr Bindig, Mr Davis, Mrs Wohlwend, Mr Gjellerod and Mr Valkeniers, proposed that the draft resolution and recommendation be revised in order to include deadlines within which concrete action should be taken by the Ukrainian authorities, otherwise sanctions would be envisaged.

Mr Schwimmer considered that the Committee had the option to present either a full report, including a draft resolution and recommendation or a mere information report. In the former case, which was that proposed by the co-rapporteurs, the texts to be voted should be more concrete. He could not agree in particular with paragraph 16 of the preliminary draft resolution: if Ukraine did not meet the criteria for Council of Europe membership, this should be spelt out clearly. Otherwise, the Committee should give Ukraine time and present at this stage an information report.

Mr Bindig noted that the situation in the Russian Federation, for which an information report was presented to the Assembly, was different: there were not as many violations of commitments as in Ukraine. For the latter, an information report would be far too weak. A stronger resolution and recommendation would be more appropriate for Ukraine. In the draft resolution, the Committee should propose deadlines within which the Ukrainian authorities should take specific action: if no progress were to be noted at the expiry of the deadline, the Committee should then propose sanctions, such as the non ratification of credentials of the Ukrainian parliamentary delegation. In the draft recommendation, the Committee of Ministers should be asked to take action under its own monitoring procedure and inform the Assembly on the measures it would take to put pressure on Ukraine to ensure compliance with commitments.

Mr Davis said that the weakness of the Committee of Ministers' monitoring procedure consisted in its thematic approach. Ministers' Deputies had been unable to answer questions raised by members of the Assembly in the recent meeting of the Joint Committee with respect to the violation by Ukraine of its commitment to put into place an immediate moratorium on executions upon accession to the Council of Europe. He proposed, supported by MM Schwimmer, Valkeniers, Jansson, Dumitrescu, that the Monitoring Committee hold a special meeting with the Ministers' Deputies to discuss exclusively the situation in Ukraine, before the debate in the Assembly.

Mrs Wohlwend agreed that more pressure should be put on the Committee of Ministers. As far as the death penalty was concerned, it was clear that deadlines had not been respected. Separation of powers was lacking in Ukraine.

Mr Domljan said that the wording of the draft resolution should be softened and the draft recommendation should be more specific. Ukraine was a big country with big problems and this was known already at the time of accession.

Mr Steolea stressed the importance of economic and social problems in Ukraine.

Mr Valkeniers said that the report should contain more information about the current political situation in Ukraine. He had visited Chernobyl and Crimea and had had the impression that Ukrainian leaders sought to obtain as much money as possible from the international community for Chernobyl but did not show enough interest in ill children. The mayor of Kyiv had been dismissed illegally. Separation of powers was not understood in Ukraine.

Mr Jansson wondered whether today Ukraine would be accepted as a member state, given the current situation, had it not already been one. Resolution 1115 provided for sanctions in case of persistent failure to comply with commitments, namely non ratification of credentials of the parliamentary delegation of the state concerned or proposal to the Committee of Ministers to suspend membership or expel the state from the Organisation.

Mr Dumitrescu noted the enormous problems of communication and transparency in Ukraine. The absence of the Ukrainian members could be involuntary. In the resolution and recommendation the Committee should use more concrete wording and identify the possible sanctions to be proposed against Ukraine.

Mr Barsony said that monitoring was a key-point for the Hungarian presidency of the Committee of Ministers and the Political Affairs Committee should bring up this issue at its meeting in Budapest with the Hungarian Foreign Minister.

The Clerk noted that the Assembly could only act vis-à-vis the Ukrainian parliament. The text of the draft resolution could be strengthened. In the draft recommendation it was more difficult to ask the Committee of Ministers to act vis-à-vis the government and the President of Ukraine, in particular in view of the thematic approach to monitoring followed by the Committee of Ministers. If the Committee agreed with the proposal, he would take the necessary steps to try to organise an informal exchange of views with the Ministers' Deputies on the situation in Ukraine, before the Assembly debate to take place during the 1999 January part-session, on the basis of the explanatory memorandum prepared by the rapporteurs.

This was agreed.

Following a discussion in which MM Barsony, Valkeniers, Bindig, Mrs Poptodorova and the Chairman took part, the dates of 15 to 17 December 1998 were proposed as possible dates for the meeting with the Ministers' Deputies.

Mrs Severinsen thanked members for their comments. With regard to sanctions, the problem was that the non-ratification of credentials would penalise the Ukrainian parliamentary delegation and this would not be fair in respect of all commitments. As far as the proposal to suspend Ukraine's membership of the Council of Europe was concerned, it would ultimately be for the Committee of Ministers to decide. The co-rapporteurs would revise their draft resolution and recommendation in the light of the discussion and circulate a new text before the meeting in The Hague on 26 November 1998.

4. SLOVAKIA

co-rapporteurs: MM. Leoni and Lesein

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press release

In the absence of Mr Lesein, Mr Leoni presented their preliminary draft report and the observations on the elections held from 25 to 26 September 1998. The electoral campaign had been calm and the results had been favourable to the former opposition forces. It was generally felt that these elections would facilitate the accession of Slovakia to the European Union. The problems of the Hungarian minority were sometimes presented in an exaggerated manner. The most delicate question concerned the reform of the judiciary, notably the appointment of judges and the role of the Minister of Justice.

Mr Fico considered that the report constituted a good basis for discussion. Since the elections, a new coalition government had been formed which disposed of a majority in parliament. The priority reform was the election of the President of the Republic by universal ballot. The parliament had decided to establish a better co-operation between the majority and the opposition. Two parliamentary committees competent for controlling the operation of secret services were currently chaired by the opposition. Minorities were now better represented in parliament and their representatives had been given more responsibility. With regard to judges, amendments to the legislation should allow a better organisation of the judiciary. If approved by the Committee, the preliminary draft report would be presented to all political parties represented in Parliament.

Mr Jansson asked whether paragraphs 8 and 9 of Opinion N° 175 on Slovakia's accession to the Council of Europe concerning minority issues were still relevant.

Mr Schwimmer was of the opinion that the commitments listed in these paragraphs were now respected. Only a law on minority languages was lacking and should be adopted in future.

Mr Barsony considered that the elections of September 1998 meant for Slovakia not only a change in government, but a genuine change of political style.

For Mr Leoni, the elections meant the beginning of a new era. Important changes had already taken place in the political life of the country. The co-operation between the Monitoring Committee and Slovakia would now be even more intensive.

Upon a proposal by the Chairman, the Committee approved the preliminary draft report on Slovakia and agreed to forward it for comments within three months to the Slovak Parliamentary Delegation. The Committee also took note that Mr Lesein was no longer member of the Assembly.

5. LATVIA

co-rapporteurs: MM. Davis and Jansson

press release

Mr Davis, co-rapporteur, said that the co-rapporteurs had visited Latvia three times in the course of 1998. The main issues raised in the preliminary draft information report concerned the death penalty and the treatment of non-citizens. Most commitments had been honoured. But ratification of Protocol N° 6 was greatly delayed. With regard to the treatment of non-citizens, the main problems concerned the so-called "age-windows" for naturalisation and the political rights of non-citizens. Following amendments to citizenship legislation in June 1998, the "age-windows" were abolished and all children born in Latvia since 21 August 1991 could be granted Latvian citizenship. These amendments were approved in the referendum on the law on citizenship which took place on 3 October 1998. Nevertheless, despite changes, these tests were still excessive, notably the history test. Some 150 questions were too difficult. It was important that Mr Van der Stoel, the OSCE High Commissioner for National Minorities, follow the recommendations made by the co-rapporteurs.

Mr Jansson, co-rapporteur, noted that the Russian-speaking population had voted in 1991 for Latvia's independence but 1/3 of them had not been able to participate in the recent elections. He wondered whether in these circumstances the elections were free?

Mr Barsony added that the percentage of Russian-speakers (about 600,000 people) paid taxes to the Latvian state but were not allowed to participate in the discussion on how these taxes should be spent.

Mr Bindig said that Latvia should follow the model of Estonia.

Upon a proposal by the Chairman, the Committee agreed to hold an exchange of views on the preliminary draft information report on Latvia at its next meeting.

6. FORMER YUGOSLAV REPUBLIC OF MACEDONIA

co-rapporteurs: Mrs Gelderblom-Lankhout and Mr Dumitrescu

press release

In the absence of Mrs Gelderblom-Lankhout, Mr Gjellerod presented his observations on the first round of the elections held on 18 October 1998. He referred to the press release issued by the Assembly's *ad hoc* committee in addition to the joint statement with other international organisations. It was to be noted that these elections took place whilst the NATO intervention in the

Federal Republic of Yugoslavia was imminent. In the light of results, it seemed that the former opposition could now form a government without the Albanians.

Mr Tahiri said that there were some irregularities but on the whole the will of the people was reflected in the outcome.

Mrs Poptodorova informed the Committee that some incidents had occurred between the two rounds. Accredited journalists from Bulgaria had not been allowed to enter the country.

The Committee took note.

7. MOLDOVA

co-rapporteurs : Mr Columberg and Mrs Durrieu

The Chairman apologised on behalf of the co-rapporteurs for their absence. They would report on their visit at the next meeting of the Committee.

On the request of Mrs Durrieu, the Committee authorised the co-rapporteurs to return to Moldova beginning of December 1998.

8. ALBANIA

co-rapporteurs: Mr Sole Tura and ...

The Chairman informed the Committee that an *ad hoc* committee of the Bureau would observe the referendum on the draft constitution on 22 November 1998.

The Committee agreed to appoint a new co-rapporteur at its next meeting.

9. OTHER BUSINESS

a. Croatia

Upon a proposal by Mr Schwimmer, the Committee appointed Mrs Stoyanova (Bulgaria, EPP/CD) co-rapporteur for Croatia to replace Mr Figel, who had been appointed Secretary of State for Foreign Affairs in Slovakia.

b. Bulgaria

Mrs Poptodorova said that it was not normal that the Parliamentary Assembly of the Council of Europe would discuss a report on a country which was not to be debated by the national parliament. She had raised a question to the Prime Minister of Bulgaria with regard to the information report discussed by the Assembly on this country last September and on this basis a debate had been held in the Bulgarian parliament. Her proposal had been that the parliament should accept the report and take all necessary measures in response. Instead, the parliament had decided that it would continue all efforts for adapting legislation to the standards of the European Union. But the important event was that the debate was broadcasted and covered by the printed media. She would be ready to co-operate with the Bureau of the Committee to put forward a proposal on this pattern to be followed by other national parliaments.

c. Turkey

The Committee authorised its co-rapporteurs, MM Barsony and Schwimmer, to attend the Conference on Human Rights in Istanbul from 20 to 22 November 1998.

d. Ukraine

The Committee authorised its co-rapporteurs, Mr Kelam and Mrs Severinsen, to participate in the meeting of the delegation of the European Parliament with Ukraine, Belarus and Moldova (Brussels, 30 November to 1 December 1998) and in the observation of partial elections in Kyiv (Kyiv, 17-21 December 1998).

e. Innsbruck Conference

The Committee authorised Mr Bindig to attend the Conference on the European Charter on Regional and Minority Languages (Innsbruck, 14-15 December 1998).

10. NEXT MEETING

The Committee agreed to meet again in The Hague, on 26 November 1998.

The meeting rose at 1.30 pm.

LIST OF PARTICIPANTS

Members present :

MM	SOLE TURA, Vice-Chairman	Spain
	BARSONY	Hungary[1]
	BINDIG	Germany
	DAVIS	United Kingdom
	DOMLJAN	Croatia
	DUMITRESCU	Romania
	FICO	Slovakia
Ms	FLEETWOOD	Sweden
MM	GJELLEROD	Denmark
	HAGARD	Sweden[2]
	JANSSON	Finland
	JASKIERNIA	Poland
	KIRATLIOGLU	Turkey
	KUZMICKAS	Lithuania
	LEONI	Italy
	MAGNUSSON	Sweden
	MUEHLEMANN	Switzerland
Ms	POPTODOROVA	Bulgaria
M	SCHWIMMER	Austria
Ms	SEVERINSEN	Denmark
MM	SMORAWINSKI	Poland
	STEOLEA	Romania
Ms	STOYANOVA	Bulgaria
MM	TAHIRI	the former Yugoslav Republic of Macedonia
	VALKENIERS	Belgium
Ms	WOHLWEND	Liechtenstein

The Clerk of the Assembly

Office of the Clerk of the Assembly :

Mr Sorinas, Head of Department

Secretariat of the Committee :

Mr Ausems
Mr Dufour
Ms Chatzivassiliou
Ms Fritsch
Ms Wurtz

[1] In his capacity as Chair of the Political Affairs Committee.
[2] In his capacity as Chair of the Committee on Legal Affairs and Human Rights.

LIST OF DECISIONS

The Committee on the honouring of obligations and commitments by Member States, meeting in Strasbourg on 5 November 1998 with Mr Sole Tura in the Chair :

- *Ukraine (co-rapporteurs : Mr Kelam, Estonia, EPP/CD and Mrs Severinsen, Denmark, LDR) :* had an exchange of views on a preliminary draft report and expressed the wish to have an informal exchange of views with the Ministers' Deputies on the situation in Ukraine, before the Assembly debate to take place during the January 1999 part-session ;

- *Croatia (co-rapporteurs : Mr Figel, Slovakia, EPP/CD and Mr Jaskiernia, Poland, SOC) :* decided to appoint Mrs Stoyanova (Bulgaria, EPP/DC) to replace Mr Figel, now Secretary of State for Foreign Affairs in Slovakia, and discussed preparation of the fact-finding visit of the two co-rapporteurs in Croatia from 10 to 13 November 1998 ;

- *Slovakia (co-rapporteurs : Mr Leoni, Italy, SOC, and Mr Lesein, France, LDR) :* approved a draft information report and decided to forward it for comments within three months to the Slovak Parliamentary Delegation and took note that Mr Lesein is no longer a member of the Assembly ;

- *Latvia (co-rapporteurs : Mr Davis, United Kingdom, SOC, and Mr Jansson, Finland, LDR) :* was informed by the co-rapporteurs about the parliamentary elections and referendum on the nationality law held on 3 October 1998, and carried over to its next meeting the exchange of views on the preliminary draft information report on the honouring of commitments by Latvia ;

- *the former Yugoslav Republic of Macedonia (co-rapporteurs : Mrs Gelderblom-Lankhout, Netherlands, LDR, and Mr Dumitrescu, Romania, SOC) :* was informed about the parliamentary elections held on 18 October 1998 by Mr Gjellerod, Chairman of the *Ad hoc* Committee for the observation of these elections ;

- *Albania (co-rapporteurs : Mr Sole Tura, Spain, SOC, et ...) :* was informed that an *ad hoc* committee of the Bureau of the Assembly would observe the referendum on the draft constitution on 22 November 1998 and agreed to appoint a new co-rapporteur at its next meeting ;

- *Bulgaria (co-rapporteurs : Mr Atkinson, United Kingdom, EDG, and Mr Gjellerod, Denmark, SOC) :* was informed by Mrs Poptodorova of the proceedings at the debate held on 16 October 1998 by the Bulgarian National Assembly on the information report by the Assembly concerning the honouring of obligations and commitments by Bulgaria ;

- *Turkey (co-rapporteurs : Mr Barsony, Hungary, SOC, and Mr Schwimmer, Austria, EPP/CD) :* authorised its co-rapporteurs to attend the Conference on Human Rights in Istanbul from 20 to 22 November 1998 ;

- authorised Mr Bindig to attend the Conference on the European Charter on Regional and Minority Languages to be held in Innsbruck on 14 and 15 December 1998 ;

- agreed to hold its next meetings on :
  - 26 November 1998 in The Hague
  - 15 December 1998 (to be confirmed)
  - 7 January 1999 in Paris.