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REPORT

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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 1059A 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.

(*Lord Russell-Johnston, President of the Assembly, took the Chair at 3.01 p.m.*)

THE PRESIDENT.- The sitting is open.

1. *Minutes of proceedings*

THE PRESIDENT.- 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. *Communication from the Committee of Ministers*

THE PRESIDENT.- We will now hear the presentation of the Communication from the Committee of Ministers to the Assembly on the activities of the Committee of Ministers, Document 8362 and Addendum, by Mr Martonyi, Minister for Foreign Affairs of Hungary and Chairman-in-Office of the Committee of Ministers. This will be followed by parliamentary questions for oral answer, Document 8391.

It is a great pleasure to welcome you again in this Chamber, Mr Martonyi, to address the Assembly. You are very well aware of the importance that we parliamentarians attach to this exercise. It offers us a unique opportunity to be directly informed of the work of the executive body of our Organisation and, in return, through parliamentary questions, make our position and concerns known to you. Since the last time you addressed us, the crisis in Kosovo has deepened and the humanitarian tragedy is slipping out of control. Our hopes that the Rambouillet agreement could bring about a solution vanished because of the uncompromising attitude of the Serb and Yugoslav authorities. The Assembly will debate the issue tomorrow and make several recommendations to the Committee of Ministers. I know that the committee has discussed the issue on several occasions and I am aware that it is difficult to find a common approach, because of the complexity of the situation, the diversity of opinions and the sensitivities.

That diversity should not prevent us from getting involved. We have at our disposal the resources, knowledge and experience necessary to help the displaced population and ease the burden of the neighbouring countries, which, in the case of Albania and Macedonia, is becoming unbearable. The diversity of opinions of our forty-one member states should not be a reason for inactivity but an opportunity for dialogue with a view to finding a common approach to deal with the crisis.

On a more optimistic note, I would like to tell you how much I am looking forward to our forthcoming visit to Budapest. Everyone who goes there looks forward to it, because it is such a wonderful city. Despite these difficult times, the fiftieth anniversary gives us an opportunity to remind ourselves of all that we have already achieved and of what still remains to be done. As we should never forget, to build democracy is an endless task.

I am delighted to welcome you to the rostrum, Mr Martonyi.

Mr MARTONYI (*Minister for Foreign Affairs of Hungary and Chairman-in-Office of the Committee of Ministers*) (Translation).- Mr President, ladies and gentlemen, when I presented Hungary's programme for the chairmanship nearly six months ago, none of us

anticipated that south-east Europe, on Hungary's doorstep, would be facing a humanitarian disaster and a political challenge as great as any since the foundation of our Organisation.

The Assembly's order of business, impressive as always, is proof, like the Committee of Ministers' agenda, that our Organisation was not caught unprepared. You will debate the Kosovo crisis and the situation in the Federal Republic of Yugoslavia tomorrow, with an address by the President of Albania, our most devastatingly affected member state. Today, you have already debated the situation in the neighbouring state of Bosnia and Herzegovina, a candidate state that is feeling the effects of the crisis.

It was natural that Hungary, following Greece - another deeply involved regional member state - in the chairmanship of the Committee of Ministers, should give south-east Europe the highest priority. I believe that we can take some pride in the way in which the various parts of our multi-institutional organisation have risen to the challenge.

Much has been done, and more initiated, since, on the last day of March, I issued a declaration calling for an end to the horror of "ethnic cleansing", which is unfortunately not yet in sight, and expressing solidarity with Kosovo's neighbouring countries, which have received hundreds of thousands of refugees, and support for the efforts of the international community, including humanitarian organisations and non-governmental organisations, to alleviate the appalling humanitarian tragedy. I also stressed the readiness of the Council of Europe to co-operate with all those in the Federal Republic of Yugoslavia wishing to build a democratic society respectful of human rights and the rule of law.

The Committee of Ministers has instructed the secretariat to pursue without delay, in agreement with the most affected countries in the region and in close contact with this Assembly and the Congress of Local and Regional Authorities of Europe as well as the most relevant international and regional organisations and institutions, the planning and implementation of urgent measures to assist in the present humanitarian crisis. In concrete terms, we are already contributing to the registration of refugees and the examination of human rights violations, and in other fields of competence of the Council of Europe, including contributing to projects for post-trauma psychological treatment for vulnerable groups among those deported and displaced, in particular women and children. Last week the main lines of a Council of Europe contribution to stability in south-east Europe were approved and a Committee of Ministers' statement adopted, setting out projects for the medium term, which naturally include contributing to the re-establishment and stabilisation of democratic constitutional and institutional frameworks in the post-conflict situation. I am very happy that all forty members of the Committee of Ministers were able to achieve consensus on those two texts.

The Committee of Ministers expressed its appreciation for the decisions adopted by the Social Development Fund for supporting humanitarian action for the Kosovo refugees, and its donation of 2 million euros. Also, it has authorised the holding of an extraordinary meeting of experts on legal aspects of territorial asylum, refugees and stateless persons relevant to the situation in Kosovo, which is taking place at this moment. However, the crisis cannot be allowed to overshadow all else on our respective agendas, especially because today we welcomed our forty-first member and saw Georgia's flag unfurl and heard its anthem ring out, in the presence of President Shevardnadze.

Enlargement was indeed on Hungary's programme, and I already had occasion this morning to express our joy. In connection with future enlargement, I am pleased that after some delays, the Committee of Ministers transmitted its request for this Assembly's opinion on Bosnia and Herzegovina's application for membership. As I informed you last January, it had been my intention and that of the Secretary General to visit Sarajevo in mid-March. There we were to have addressed a meeting of the two chambers of parliament to bring a message of encouragement, bearing in mind this Assembly's work on the accession procedure. However, we had no alternative but to postpone our visit as it proved impossible, at that time, to meet with the common institutions of the state. The press release that we issued stressed the Council of Europe's firm desire to see Bosnia and Herzegovina making progress in the consolidation of the common state institutions, with the full participation of both entities and the three main communities. We are all the more pleased today that the three members of the Presidency were present here on the occasion of your debate this morning. I held a long and fruitful discussion with them last night, in the course of which they expressed their determination to strengthen the joint institutions.

Another important item on our chairmanship programme was structural reform, and I pay tribute to our Deputies' *ad hoc* working party, known as GT-SAGES which, under not only wise but dynamic United Kingdom chairmanship, enabled the Deputies last week to approve a report for presentation to our Budapest ministerial session on the state of progress in implementing the reform in question, inspired by the Wise Persons' proposals in their final report, "A Greater Europe without dividing lines." This is one aspect of follow-up to the second summit. An equally impressive effort, sustained over a longer period, has been achieved by the Follow-Up Committee GT-SUIVI, which has fulfilled its mandate, thanks to the chairmanship - on which I congratulate him - of the ambassador of France, thus enabling our Deputies to adopt the third and final report on this subject, with a view to our Budapest session.

Another priority on Hungary's programme is monitoring. I am pleased that members of the Assembly will have recently received, in the interests of our enhanced co-operation, national reports on the subject of capital punishment. This follows the decision that our Deputies took last February, in the context of follow-up action to the Committee of Wise Persons' report. I was particularly pleased to have exchanged views yesterday with chairman Mota Amaral and members of the Monitoring Committee's Bureau.

Another priority, particularly relevant in the context of the Kosovo crisis, is co-operation with other international organisations. In addition to the high-level 2+2 meeting last January with the Norwegian OSCE Chairman, Minister Vollebæk, on the occasion of his address to this Assembly, the thirteenth in the series of quadripartite meetings with the European Union leadership took place on 10 February. This was at the invitation of the German Chairman of the Council of the Union, Minister Verheugen, and as, on past occasions, Commissioner Van den Broek, a former Chairman of the Committee of Ministers, well known in this Assembly, was an active participant. Obviously both those meetings paid close attention to south-east Europe and we found full recognition of the role of the Council of Europe particularly when it comes to post-conflict rehabilitation.

Another of Hungary's priorities is, not surprisingly, the protection of national minorities. Here we are particularly satisfied that the practical monitoring has started, both of the Framework Convention for National Minorities and of the European Charter for Regional and Minority Languages.

Mr President, we have also achieved our goal regarding the office of Commissioner for Human Rights, and the decision will be a highlight of our fiftieth anniversary ministerial session in Budapest. On the same occasion we will - taking into account our discussion with you, Mr President, and representatives of the Assembly in the Joint Committee next Thursday - adopt the "Budapest Declaration for a Greater Europe without dividing lines."

As our chairmanship draws to its close, it was a source of great satisfaction to co-organise with the Council of Europe two weeks ago in Sárospatak, Hungary, a European Conference on Transfrontier Co-operation for the promotion and protection of the cultural and natural heritage in central Europe.

There it was concluded that the message of the Vienna Declaration of the Council of Europe that was adopted in 1993 remains valid, especially due to the fact that Europe has experienced the creation of new borders and the dissolution of old ones in the recent past. Trans-frontier co-operation, as a confidence-building instrument, to which Hungary is strongly committed, contributes to a better understanding between peoples living on each side of the border, and thus promotes the creation of a democratic, tolerant and prosperous Europe.

It is natural that, when innocent civilian populations are suffering on such a scale, the Council of Europe, like other organisations created in the aftermath of the second world war, approaches its jubilee and the new millennium in a sober, even sombre mood. Yet, as Europe faces its defining moment, and as we redouble efforts to rise to the challenge posed by the emergence of the still unexorcised demons of extreme nationalism, we can still celebrate this confirmation of the relevance of our joint efforts to bring, as soon as circumstances permit, democracy, human rights and the rule of law to parts of our continent where lack of them - or rather, their total negation - has produced suffering on such a shocking scale.

Mr President, I wish you every success in your and this Assembly's efforts. I am of course ready to answer questions.

THE PRESIDENT.- Thank you very much, Mr Martonyi, for your address. As I said earlier, questions to you are set out in Document 8391, which you all have. As you know, the normal way of proceeding is simply to call the question, to which you reply, and then to allow the questioner a supplementary. The Minister has asked to answer certain related questions together, which seems reasonable and fair. So, he is proposing that Questions Nos. 1 to 4, 7 and 8 and 14 and 15 will be taken together.

"*Question No. 1:*

Lord Judd,

In the light of the lead role played by Nato on the Kosovo crisis,

To ask the Chairman of the Committee of Ministers,

What part the Committee of Ministers is playing in helping to find a viable long term solution and in ensuring the political, economic and social rights of all the people of the region?"

"*Question No. 2:*

Mrs Durrieu,

Considering that the Conference on Stability in the Balkans, the principle of which was adopted at the summit meeting of the North Atlantic Treaty Organisation (Nato) in Washington on 24 April last, will be held in Berlin on 29 May next, and that it would appear that this Conference will bring together representatives of Nato, the OSCE and the European Union,

Considering that the Council of Europe, which already includes several Balkan countries and whose role it is to help them all to establish the guarantees of the Rule of Law in order to bring the whole continent together, should not be absent from this Conference,

To ask the Chairman of the Committee of Ministers,

What steps the Committee of Ministers intends to take in order to attend the Conference on stability in the Balkans?"

"*Question No. 3:*

Mrs Poptodorova,

Given that it has been decided to hold on 27 May in Bonn, a conference on South-Eastern Europe, in which, according to information in the press, Nato, EU and the OSCE will be taking part,

To ask the Chairman of the Committee of Ministers,

If the plan for the reconstruction of South-Eastern Europe, adopted by the Committee of Ministers only last Friday, will be debated at the conference?"

"*Question No. 4:*

Mr Yürür,

Considering that the Committee of Ministers has decided to include the South-East European co-operation process in the list of regional organisations with which the Council of Europe will co-operate to further its aims,

In view of the latest developments in the Balkans, the importance of the South-East co-operation process is becoming more evident, rendering it a valuable partner in the region for the Council of Europe,

To ask the Chairman of the Committee of Ministers,

To share his views on how best to benefit from this relationship, particularly vis-à-vis the efforts to promote democratic stability in the region."

I call Mr Martonyi.

Mr MARTONYI.- It is a particular pleasure for me to note that countries in south-east Europe are now actively promoting the idea of a stability programme for the region, including the establishment of a reconstruction fund - an initiative that was originally proposed by Hungary as early as the end of March.

In my presentation to the Assembly a few minutes ago, I spoke of the adoption by our Deputies last week, for forwarding to our ministerial session in Budapest, of the "Stability Programme for South-East Europe: a Council of Europe contribution". I also referred to the adoption of a statement on the Council of Europe's contribution to political and democratic stability in South-East Europe, which has been made available to you in the addendum on the statutory report.

These documents include activities aimed at the most urgent needs in the fields of reports on the violations of human rights, registration of refugees and assistance to traumatised victims, particularly children and women. But Lord Judd is correct that it is especially in the medium and long term that the Council of Europe's special expertise will be applied, such as in projects aimed at redressing the human rights situation and the return of refugees and displaced persons: contributing to the re-establishment and stabilisation of democratic constitutional and institutional frameworks; developing a culture of democratic citizenship, confidence-building, civil society and independent media; promoting culture and education in an inter-cultural perspective.

In the words of the statement adopted: "The overall long-term aim of the Council of Europe is to bring each and every country in Europe" - including those in the region in question - "to the point of accepting and living up to the principles of pluralist democracy, human rights and rule of law. The Council of Europe is open to membership of all the countries in the region, on the basis of these principles."

To Mr Yürür, I would stress that the Committee of Ministers is of course ready for close co-operation with the south eastern European co-operation process, on which it is kept fully informed by the current Romanian chairmanship of this regional organisation. This is also fully in line with the recommendation of the Committee of Wise Persons, which states that our organisation "should further develop existing co-operation with European regional organisations, particularly those in central and eastern Europe". The SEEC falls into the category of organisations having objectives and activities relevant to those of the Council of Europe, with which the Committee of Ministers has decided to encourage mutually beneficial co-operation, taking into account the specific nature of each organisation .

To Mrs Durrieu and Mrs Poptodorova, I would say that, for the Hungarian chairmanship, it is evident that the statement we have just adopted on our Organisation's contribution to stability in south-east Europe is a clear indication of what we have to offer to what I see as an essential multi-institutional response to the crisis in the region. The Committee of Ministers would certainly reply positively to an invitation to participate in the conference on stability in the region, which is planned for late May. The Council of Europe has much to offer, and has already participated along with other relevant international organisations in conferences on this subject convened by the European Union in past weeks.

THE PRESIDENT.- Thank you, Minister. We shall now take four supplementary questions in the order in which the main questions were tabled. I remind the Assembly that you are supposed to ask questions, not make speeches - unless you are able to make a speech under thirty seconds. I call Lord Judd.

Lord JUDD (*United Kingdom*).- As the first questioner, I hope that I may say on behalf of most of us here that although we are not always uncritical of the Committee of Ministers, we are all heartened by the very positive and co-operative spirit that is evidently working among ministers at the moment as they look to the challenges of the future. May I put a supplementary question with two specific parts? Will the Committee of Ministers assure us that it is geared to giving firm leadership, not least to its own governments, about the immense ongoing, long-term costs of reconstruction in Kosovo and, indeed, within "the former Yugoslav Republic of Macedonia"? I do not mean physical reconstruction but the whole business of rebuilding those societies, which may dwarf the costs of bombardment.

Secondly, may I ask whether in the immediate situation more can be done to follow up the commendable action in sending people to help with registration, which is crucial to human rights? There is evidence that the registration programme is desperately short of personnel and that not enough people are being registered. Of course, if that goes wrong that spells great long-term problems for the future.

THE PRESIDENT.- You took three times the time that you should have. We must have some discipline, surely.

Mr MARTONYI.- I wholeheartedly give the assurance that all members of the Committee of Ministers will urge and encourage their respective governments to do as much as possible for the economic and political reconstruction of Kosovo, of Yugoslavia and indeed of the whole region. I agree that rebuilding society will be perhaps an even more immense exercise than the economic reconstruction of the region. We are all aware of the immensity of the task. We have to make all the necessary preparations for that vast exercise that is ahead of us. I assure you again that the Council of Europe and the Committee of Ministers will have an important role and will make an important contribution towards the success of that exercise.

On registration, I am aware of the difficulties on the ground. I have tried to clarify how the personnel on the ground in the respective regions can be increased. More attention and possibly more resources could be given towards achieving that important exercise.

THE PRESIDENT.- Thank you. I call Madame Durrieu.

Mrs DURRIEU (*France*) asked whether any action was planned on behalf of the Council of Europe.

THE PRESIDENT.- Thank you for keeping well within the time limit.

Mr MARTONYI referred to Annex 1 of the paper prepared by the Committee of Ministers, which contained a list of actions already undertaken or planned.

THE PRESIDENT.- I now call Mrs Poptodorova.

Mrs POPTODOROVA (*Bulgaria*).- My question is on the same lines, although it may be premature. It is commendable that the Committee of Ministers has adopted the plan for south-eastern Europe but some of us who live there would like to know what the timetable is. Have any time limits been provided for? Have they been discussed by the Committee of Ministers? Are there at least preliminary actions, although it is understood that until the conflict is eventually ended it will be difficult to carry out an overall scheme of activities? However, in relation to the reunification of families and humanitarian action, if the Council of Europe is there on site that will create assurances and conviction in the countries of the area - the front line states - that the plan is being put into action and not being postponed for an indefinite period.

Mr MARTONYI.- Thank you for your question. I assure you that it is not premature to put that on the table. For the time being many international organisations are preparing themselves for the stability operation - in the political and economic sense. The Council of Europe and the Committee of Ministers recognise what is needed to be done immediately and in due time. As I have said, two million euros have already been transferred from the Social Development Fund to alleviate the plight of deported and displaced persons. Work will continue in that regard. On the longer term prospects we all know that conferences will be convened soon and that the Council of Europe will be invited to those conferences. It is important that good co-operation and co-ordination are established among the different international organisations. We all have our different vocations, tasks and funds. The Council of Europe has to show its strengths as well.

The exercise will be longer term with different dimensions - political, cultural, humanitarian, economic and financial. Good co-operation and co-ordination will be indispensable.

For its part, the Committee of Ministers would like to assure you that we will play our part in the exercise. I repeat that my country is specifically interested in a prosperous, democratic and peaceful south-eastern Europe so we are putting our best efforts to ensuring that the operation is successful.

THE PRESIDENT.- Thank you. The next question is No. 5.

"*Question No. 5:*

Mr Atkinson

To ask the Chairman of the Committee of Ministers if he will make a statement of progress on the establishment of an international criminal court."

I call Mr Martonyi.

Mr MARTONYI.- The Committee of Ministers has already informed the Parliamentary Assembly about the position of the Council of Europe in relation to the establishment of an International Criminal Court. It gave the necessary details in April 1998 in its reply to Question No. 27 by the honourable Mr McNamara.

The Committee of Ministers now wishes to inform the Parliamentary Assembly about progress made since then.

The Statute of the ICC was adopted at a Diplomatic Conference on 17 July 1998. It was approved by 120 votes for, 7 votes against and 20 abstentions. Twenty-two states signed the statute immediately after and 47 states signed the Final Act.

To date, 82 countries have signed the Statute including 35 member states of the Council of Europe. Moreover, it has been ratified by Senegal and Trinidad and Tobago. A number of member States of the Council of Europe are currently completing their ratification procedures and it is expected that they will be able to ratify soon. Ratification by 60 countries is required for the court to be established.

The rules of procedure and evidence are currently being elaborated by a Preparatory Commission, which held a meeting last February and will hold two further meetings in 1999 at the United Nations Headquarters in New York. The Preparatory Commission's mandate is to prepare a set of rules of procedure and evidence by the end of June 2000. This would then be submitted for adoption by the Assembly of States Parties to the Statute.

Mr ATKINSON *(United Kingdom)*.- The Minister has just told us that it requires sixty states to ratify the statute for the International Criminal Court to proceed. It is clearly desirable for all forty-one member states of the Council of Europe to ratify the statute as soon as possible. When does he expect them to do so?

Mr MARTONYI.- I could not agree more with the respected parliamentarian. Ratification by sixty countries should be achieved as soon as possible. The Committee of Ministers will encourage its members to urge their respective governments to ratify as soon as possible. I respectfully ask all the distinguished parliamentarians here to do the same and urge their respective governments to take an early decision on the issue and ratify the instrument.

THE PRESIDENT.- We come now to Question No. 6.

"*Question No. 6:*

Mrs Squarcialupi,

Considering that there has been a dramatic and increasing use in recent years (in Bosnia and Albania, for example) and currently (in Kosovo) of military force for humanitarian missions aimed at re-establishing an acceptable level of peace and democratic life, and that it is therefore essential for a prestigious organisation such as the Council to be able to lay down general rules on the subject,

In view of the fact that the Council of Europe has no authority as an international organisation to deal with issues relating to defence,

To ask the Chairman of the Committee of Ministers,

Whether it could not and should not lay down the principles, circumstances and methods applicable to military interventions to safeguard human rights and democratic institutions."

Mr MARTONYI (Translation).- From a general point of view, the involvement of the Council of Europe in the drafting of rules and standards concerning the use of military force for humanitarian missions could raise questions as regards Article 1d of the Council's Statute since, as the honourable member pointed out, issues of national defence do not fall within the Council's remit.

Naturally, the Council of Europe is entirely free to adapt its objectives to new crucial problems for Europe and to take up new challenges. It can do so on condition, of course, that such action is based on genuine political will and impetus and is taken in co-operation with the other international organisations already working in these areas.

As the Committee of Ministers has not discussed this question, I cannot, in my capacity as its chairman, make any comments as to the existence of such political will. The question should therefore be examined and discussed by all of my colleagues on the Committee of Ministers.

Mrs SQUARCIALUPI (*Italy*) said that the answer was satisfying and admitted that the Council of Europe might take an interest in military action where that was designed to maintain security and protect human rights. Things needed to be changed in the light of recent events.

THE PRESIDENT.- I call Mr Martonyi.

Mr MARTONYI said that the proposed question would be debated in the Committee of Ministers. He was aware of the danger of exceeding the remit. Therefore a debate in the Committee of Ministers was necessary to test opinion.

THE PRESIDENT.- Thank you. As I have already said, Questions Nos. 7 and 8 will be taken together.

"*Question No. 7:*

Mr Solé Tura

To ask the Chairman of the Committee of Ministers,

For his views on the relationship between the Committee of Ministers and the Assembly's Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe."

"*Question No. 8:*

Mr Kelam,

Considering that the Assembly is going to debate the results of the activities of the Monitoring Committee this afternoon,

To ask the Chairman of the Committee of Ministers,

What steps the Committee of Ministers is taking, through the Council of Europe's monitoring process, to ensure that new member states can meet their commitments?"

Mr MARTONYI.- I thank the honourable parliamentarians for their questions, which allow me to refer to my reference in my presentation just now to the importance that Hungary has attached during its chairmanship to making progress, together with the Assembly, with our respective monitoring procedures, which we see as one of the major challenges to both the Committee of Ministers and this Assembly.

One recent innovation, mentioned in the statutory report, was the decision to declassify and forward to this Assembly national contributions to Committee of Ministers monitoring reports.

Mr Solé Tura, as Vice-Chairman of this Assembly's Monitoring Committee, took a very active part in a wide-ranging informal exchange of views with the committee's entire Bureau, which took place, on my initiative, yesterday afternoon. This meeting followed a first contact, which I very much welcomed, with Chairman Mota Amaral last January. Yesterday I was pleased to learn that this Assembly's Bureau is considering the proposal of the Hungarian chairmanship that the chairman of the committee, "bearing in mind mutual efforts to ensure closer co-operation between the Committee of Ministers and the Parliamentary Assembly", possibly accompanied by the Bureau and/or rapporteurs, participate in a general exchange of views on the monitoring procedures of both organs, at the next *in camera* meeting on monitoring next June.

Mr Kelam has, as a rapporteur of the same committee, participated in another innovation introduced during our chairmanship, which my interlocutors found promising, namely an informal meeting, in Paris, with the Chairman of the Deputies accompanied by the ambassador of the country concerned.

Normally each monitoring recommendation of this Assembly gives rise to discussion, and where necessary, decisions by the Committee of Ministers to adapt programmes to assist the country concerned in its efforts to meet its obligations.

Mr SOLÉ TURA *(Spain)*.- I have nothing to add to Mr Martonyi's answer. The Monitoring Committee has enjoyed good communication in the past month. That is important, because fast communication with the Committee of Ministers ensures that our monitoring procedures are not reduced to just a document and are adapted to reality. Our documents must be regarded as decisions of the Council of Ministers. We are going in the right direction.

THE PRESIDENT.- I am sure that the minister appreciates tributes.

Mr KELAM *(Estonia)*.- I am encouraged by the spirit of co-operation within the Monitoring Committee. The committee has discussed on several occasions the question of extending the monitoring process to all member states of the Council of Europe, and not only the new democracies. In other words, it is proposed that there be occasional fitness tests of democracy in all member states. What is the view of Mr Martonyi on that matter?

Mr MARTONYI.- That question was one of the ideas that we discussed yesterday afternoon. The monitoring by the Committee of Ministers is of a non-discriminatory nature

and covers all member states of the Council of Europe, both new and old. The question whether the monitoring activities of the Monitoring Committee of the Parliamentary Assembly should be extended beyond its original area belongs to the distinguished parliamentarians. It is a question of co-operation and co-ordination between the different committees of the Parliamentary Assembly. We do co-operate, and we can act if there is a crisis. However, the matter must be decided by the parliamentarians.

THE PRESIDENT.- We come to the next question.

"Question No. 9:

Mr Bindig,

Considering that the most recent report published by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or punishment (CPT) on Turkey reveals again that grave violations of human rights, including torture in Turkish prisons, are being committed, and that similar conclusions were drawn in earlier reports,

To ask the Chairman of the Committee of Ministers,

Whether the Committee of Ministers shares the opinion that it is not in keeping with the principles and standards of the Council of Europe that a member state continues today to use torture, and what the Committee of Ministers intends to do against the practice of torture in Turkey?"

Mr MARTONYI.- I should like to assure Mr Bindig that the Committee of Ministers fully shares his opinion that it is not in keeping with the principles and standards of the Council of Europe that a member state continues today to use torture. Such practices are unacceptable in any country, and particularly in any which has accepted, or intends to accept, the obligations entailed in membership of this Organisation.

Turning to the specific question of Turkey, I would like to quote from the summary of the report mentioned (paragraph 239), which reads "Over the last twelve months, the Turkish authorities have provided the CPT with a wealth of information on measures taken to come to grips with the problem of torture and ill-treatment by law enforcement officials. In the present report, the committee has commented upon those measures, in the light inter alia of the facts found during the October 1997 visit. The CPT can concur with the view advanced by the Turkish authorities that 'Turkey is moving in the right direction'; however, reaching the desired goal will require a sustained effort by all parties concerned."

The Committee of Ministers is also deeply concerned with the problem as it arises in cases under the European Convention on Human Rights, and here I can give you the following information:

As regards torture and ill-treatment during detention in police custody in the context of ordinary crimes committed outside the regions subject to a state of emergency, the Committee of Ministers has reviewed the measures taken by the Turkish authorities in the Yagiz and Sur cases. The committee notes that the Turkish authorities have undertaken an important programme, including in particular both new regulatory and educational initiatives, in order to implement fully, in all circumstances, the constitutional and legal prohibitions on torture

and ill treatment. Details of the measures referred to are appended to the relevant resolutions. The Committee of Ministers indicates, however, that it will continue to pay attention, within the framework of its supervision of the execution of court judgments and Committee of Ministers' decisions in other cases, to the implementation of measures necessary to prevent this kind of violations by the relevant Turkish authorities.

The Committee of Ministers is currently examining the question of torture or ill-treatment by security forces during custody in cases of alleged offences falling within the competence of the state security courts or committed in the regions under a state of emergency.

Mr BINDIG *(Germany)* said that he had approached the question with some impatience. After fifty years torture was still being practised. He asked whether the Committee of Ministers was now willing to focus on the issue.

Mr MARTONYI.- I assure the distinguished parliamentarian that the Committee of Ministers is willing to look at the matter, and is fully focused on this crucial issue within the limits of its powers, competencies and responsibilities. We will continue to pursue our efforts to make the supervision exercise as efficient and effective as possible.

THE PRESIDENT.- Thank you very much. We now come to Question No. 10 to which there will be two supplementary questions.

"Question No. 10:

Mr Jurgens, Ms Ragnarsdóttir,

Considering that the Committee of Ministers is repeatedly confronted by cases where a few member states demonstrate reluctance to enforce judgements of the European Court of Human Rights, thus violating their obligations under the Convention,

Noting, however, that so far no member state has eventually refused to abide by the judgments,

Recalling that the Committee of Ministers has on two prior occasions[1] been asked by the members of the Parliamentary Assembly what measures the Governments of Turkey and of France have taken, or envisage to take, in order to redress the situation of the applicants in the cases of the *Socialist Party and others* v. *Turkey* (judgment of 25.5.1998) and *Hakkar* v. *France* (Application No.19033/91),

Stressing that so far no satisfactory information has been given from the Committee of Ministers in these cases;

Noting with approval that the Committee of Ministers, through the adoption of the Interim Resolution DH (99) 245, has insisted on Turkey's obligation under Article 53 of the Convention to erase, without delay, through action by the competent authorities, all the consequences resulting from Mr Perinçek's conviction, including his being held in detention.

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[1] See Written Question No. 378 of September 1998 and Parliamentary question for oral answer No. 15 of January 1999.

To ask the Chairman of the Committee of Ministers:

If it deems acceptable that some rulings of the European Court of Human Rights against member states are not fully and immediately enforced by those member states,

What immediate measures the Turkish Government has indicated to the Committee of Ministers that it envisages to give full effect to the Committee of Ministers' interim resolution in the *Socialist Party* case,

If the Committee has now received assurances from the French Government that it will respect the Committee of Ministers' decision, notably through an action by the Minister of Justice requesting a new trial for *Mr Hakkar*, so that his conviction to life imprisonment can be re-examined in fair proceedings?"

Mr MARTONYI.- I thank the honourable members for their questions and take this opportunity to stress the importance the Committee of Ministers attaches to the swift execution of judgments of the European Court of Human Rights and decisions by the Committee of Ministers.

Proper execution implies that the member states take all the necessary measures to avoid similar violations in the future, but also that states remedy the situation of applicants who are still suffering from the violations found by the court or the Committee of Ministers. Enforcement is an essential element of the efficiency of our system for the protection of human rights, which would be seriously called into question if the obligations freely accepted by the member states in this regard were not fully respected.

Concerning the case of the Socialist Party and others against Turkey, I can convey the following information: the Ministers' Deputies were informed at their last meeting that a request submitted by Mr Perinçek on 24 March 1999 to have his criminal conviction reviewed was opposed by the public prosecutor and rejected by the State Security Court in Ankara on 9 April 1999. The Chair of the Committee of Ministers has been invited by the committee to write to the Minister of Foreign Affairs of Turkey to indicate that, in view of this situation the committee has been led to conclude that Turkey is not complying with its obligations under the convention and to seek his assistance in finding a rapid solution to the situation.

As regards the case of Hakkar against France case I can inform you that the French Minister of Justice has stated to the Committee of Ministers that she will not take any action to request the reopening of Mr Hakkar's case under French law. She considers that French law does not allow such an action following a decision by the organs of the European Convention on Human Rights. She indicated, nevertheless, that for the future an in-depth consideration of an amendment to the relevant law on reopening of proceedings was under way within the Ministry of Justice.

I may add, however, that all possible remedies have not yet been exhausted: there are at least two requests for a pardon pending before the President of the French Republic, one lodged by the applicant and one on his behalf by a non-governmental organisation.

Mr JURGENS (*Netherlands*).- The Minister answered clearly and politely that the European Convention on Human Rights will be seriously called into question if member states do not respect their obligations in specific cases, but that the Committee of Ministers can do no more than it has done. Is the committee willing to ask the French and Turkish Justice Ministers to come to Strasbourg for the June Assembly meeting to account for the fact that their countries are not complying with decisions following the mechanisms of the convention in two specific cases, as a consequence of which two men are still in jail who should not be?

Mr MARTONYI.- In those cases, as in all others, the normal procedures will have to be followed. The Committee of Ministers will do its best to ensure that those normal procedures are fruitful and effective. However, I refrain from making promises or accepting commitments that would go beyond the procedures set by the rules that are binding on us all.

Mrs RAGNARSDÓTTIR (*Iceland*).- I, too, thank the Minister for his detailed answer. I hope that the French President will give a positive response to Mr Hakkar's request for a pardon. It is unacceptable that Mr Hakkar and Mr Perinçek should remain in jail while the French and Turkish authorities do nothing to remedy the situation. This is the third time that we have asked about the applicants. Will the Committee of Ministers keep us informed about any developments in the cases?

Mr MARTONYI.- We will certainly keep the Assembly informed about any developments, including any granting of a pardon by the President of the French Republic.

THE PRESIDENT.- We come to the next question.

"*Question No. 11:*

Mr Clerfayt,

Considering that the European Court of Human Rights on 28 July 1998 awarded the applicant in the Loizidou case just satisfaction due to the violation of her property rights in Northern Cyprus,

Considering that the delay for payment has expired and that according to available information Turkey has not yet paid,

Noting the reply of the Chairman of the Committee of Ministers regarding this case at the Assembly's September session, according to which the Committee would assume all statutory means to obtain the execution of the court's judgment;

To ask the Chairman of the Committee of Ministers,

What the Committee of Ministers intends to do in order to ensure that Turkey conforms with its obligations under the judgment immediately to pay the just satisfaction to the applicant?"

Mr MARTONYI.- Following the court's judgments of 18 December 1996 and 28 July 1998, the Committee of Ministers has been pursuing its examination of the case under Article 54 of the Convention.

Turkey has explained that in view of the exceptional nature of the judgments, this case raises difficulties as far as the execution is concerned. Turkey has suggested that the execution of the judgments should be part of a global solution of the Cyprus problem.

Mr CLERFAYT (*Belgium*) noted that there had been too many cases where countries had neglected their obligations in respect of compliance with decisions of the Strasbourg court. In the context of the current postponement of a decision, he asked whether the Committee of Ministers would look at this matter generally.

THE PRESIDENT.- I call Mr Martonyi.

Mr MARTONYI confirmed that the Committee of Ministers would continue its efforts in such cases, while acknowledging that there had been delays.

"*Question No. 12:*

Mr Mutman,

Considering that the Council of Europe is undergoing a considerable restructuring process in an effort to adapt to the new challenges,

Observing with great concern the steady increase in racism, xenophobia, ethnic hatred, aggressive nationalism and terrorism,

To ask the Chairman of the Committee of Ministers,

How the Committee of Ministers plans to counter these threats to social cohesion and democratic cohesion?"

Mr MARTONYI.- I fully agree with Mr Mutman's view that racism, xenophobia, and ethnic hatred are a serious threat to democracy. The Committee of Ministers has already started work on a restructuring process in its efforts to adapt to the new challenges. In the short term, we shall rely on the mechanisms already in place, strengthening them where appropriate. In the legislation and policy field, we must use the potential of our European Commission against Racism and Intolerance. The commission must be firmly supported and its action widened, in order to strengthen the effectiveness of its work of combating racism and intolerance at the pan-European level.

Regarding our common will to combat racism and related intolerance, the committee attaches great importance to the preparation by the Council of Europe of the European contribution to the future United Nations World Conference against Racism, a major United Nations event that will examine responses to racism world-wide. Europe has a pivotal role to play in this context and we must make our voice heard, through a timely preparation of this European contribution. I would like the Council of Europe to be the lynchpin of such preparation.

Finally, the events related to Kosovo have highlighted in a dramatic way the consequences of ethnic hatred and aggressive nationalism. The Council of Europe should

make the best possible use of its instruments, abilities and resources to face up to this situation.

Creating the conditions for good community relations will also be an important dimension of the Council of Europe's strategy for social cohesion. The European Committee on Migration, known as the CDMG, is the body responsible for this area of work. The main project of the CDMG at present is entitled "Tensions and tolerance: building better integrated communities across Europe". The numerous activities undertaken within this project aim at solving the problems relating to the integration of immigrant communities in the host societies.

THE PRESIDENT.- I call Mr Mutman.

Mr MUTMAN *(Turkey)*.- I thank Mr Martonyi for that reply. I do not intend to ask a supplementary question.

THE PRESIDENT.- We now come to Question No. 13.

"Question No. 13:

Mr Aleffi,

The Committee of Wise Persons has proposed a reform of the Council of Europe's human resources to encourage staff mobility and promote career progression based on merit, seniority and equal opportunities. To that end, the Wise Persons' report stresses the need to break down barriers between certain categories of function that are too closely related to grades. This link is sometimes too rigid and constitutes a barrier to mobility. Consideration should also be given to allowing staff who have given the Organisation years of devoted service to request early retirement, which would make it possible to reduce the age structure, increase new countries' representation in the Council's secretariat and facilitate career progression. Given the requirements of the Council's imminent reorganisation and the need to introduce new nationalities into the secretariat, the application of the measures proposed in Resolution (92) 28 would help to reduce the financial impact of these changes.

To ask the Chairman of the Committee of Ministers,

What are the realistic chances of securing financing for the application of Resolution (92) 28, which establishes special measures to terminate the service of permanent staff aged at least 58 years with at least 15 years' completed service?"

Mr MARTONYI (Translation).- Resolution (92) 28, to which the questioner referred, has been applied only once, in 1992, and led to the early retirement of ten staff members in categories A, L, B and C.

At the time, the main aim was to speed up the renewal of human resources in the secretariat in the context of major changes in the Organisation's missions. The measures in question were therefore voluntary on the part of the staff concerned.

At present, the possible reasons for implementing early retirement measures again would be a desire to rebalance the geographical distribution of posts in the secretariat and to

permit access to posts by nationals of member countries that have joined the Council more recently.

In the course of the work to be started shortly to follow up the Wise Persons' report, the Deputies will, of course, assess the advisability of implementing a new early retirement plan, the legal foundations on which it could be based and, if appropriate, the financial resources that could be allocated to it.

THE PRESIDENT.- Thank you. Mr Aleffi, please.

Mr ALEFFI *(Italy)* asked what measures the Committee of Ministers proposed to solve the difficulties for career officials. If there was no growth there would be no jobs.

Mr MARTONYI responded by saying that Resolution (92) 28 said only that Deputies would be assessing possible early retirement schemes.

THE PRESIDENT.- Thank you. Questions Nos. 14 and 15 on child labour will be taken together.

"Question No. 14:

Mr Evin,

Considering that the General Assembly of the ILO, which will meet in June, is expected to adopt a convention concerning the elimination of the worst forms of child labour,

That these worst forms concern:

- the different forms of forced labour,
- the recruitment of children for the purposes of prostitution,
- the use of children for illegal activities, such as drug trafficking,
- work which endangers children's health and safety,

that although almost all of the Council of Europe's member states have ratified Convention 138 of the ILO, we know that child labour remains a reality in Europe;

That the Parliamentary Assembly's Social, Health and Family Affairs Committee, which a few days ago held a hearing of the ILO representative in Brussels, has learned that an estimated 500 000 children are undertaking various forms of work in Europe, even though child labour is prohibited by the European Social Charter;

That this number does not reflect the number affected by the worst forms of work. However, if we are prepared to face up to the reality in many of our countries, we must be aware that action is required to combat the modern forms of child exploitation;

That we consider it necessary to give active support to the ILO's efforts to reduce these new forms of slavery;

To ask the Chairman of the Committee of Ministers,

How the Committee of Ministers assesses the worst forms of child labour in Europe and what initiatives it considers should be taken, in addition to ratifying the new ILO convention, which the Council of Europe's member states should complete rapidly, to ensure that the worst forms of child labour are finally eliminated from this continent?"

"Question No. 15:

Mr Cox

To ask the Chairman of the Committee of Ministers,

What action the Committee of Ministers will take to fully support the draft convention of the International Labour Organisation to combat the worst forms of child labour within the member states of the Council of Europe?"

Mr MARTONYI (Translation).- The early adoption of the new ILO Convention on the Prohibition and Immediate Elimination of the Worst Forms of Child Labour is bound to be welcomed by the member states of the Council of Europe. As defenders of human rights, we wish to see the ending of the economic exploitation of children world-wide.

At the Council of Europe, we also spare no effort to take account of children's needs and interests through various inter-governmental activities. A multi-disciplinary Programme for Children has been under way for several months and a ministerial conference is due to be held in Stockholm in mid-June. The Parliamentary Assembly has been informed about this in detail, in particular through the Committee of Ministers' replies to its recommendations on the subject.

The Committee of Ministers has attached the greatest importance to Recommendation 1336 on "Combating child labour exploitation as a matter of priority". I wish to assure the Assembly that it is an integral part of the Council of Europe's Programme for Children. The Forum for Children will propose a number of concrete follow-up measures to the recommendation in the months ahead.

I should also like to mention the European Social Charter and the Revised Charter, as well as the additional protocol providing for a system of collective complaints by certain non-governmental organisations and management and labour. These benchmark texts for social rights in Europe play an important part in protecting children against exploitation through work and against the associated risks for their health and education. Article 7 of the Social Charter, Article 7, paragraph 2, and Article 30 of the Revised Charter go beyond the provisions of the future ILO Convention.

I would therefore urge the Assembly to continue its work to promote the signing and ratification of the European Social Charter and its additional protocols or of the Revised Charter, as well as their strict application thereafter.

THE PRESIDENT.- Do you wish to ask a supplementary question, Mr Evin.

Mr EVIN (*France*) drew attention to the continuing existence of child labour.

Mr MARTONYI said that the Committee of Ministers agreed. The Child Forum would soon propose follow-up measures to its recommendations. The Committee of Ministers intended to continue its efforts in this direction.

THE PRESIDENT.- Would you like to ask a supplementary question, Mr Cox?

Mr COX (*United Kingdom*).- I have listened with great interest to the Minister's opening statement and his reply to my parliamentary colleague. Does the Minister agree that any form of child exploitation is wrong because these youngsters have little or no rights - especially those who are sexually exploited, either in prostitution or pornography which, sadly, exists in the member states of the Council of Europe? That is the urgency of the matter. I agree with my parliamentary colleague that ratification of treaties is crucial, but so is the follow-up of member states, in order to ensure that such policies are not allowed to continue as, sadly, they do in many countries, including my own.

Mr MARTONYI.- Yes, I fully agree with the distinguished parliamentarian. Ratification of treaties and the adoption of legislation is one thing, but implementation and enforcement is another. We are all committed to appropriate enforcement and implementation of rules. I assure you again that the Committee of Ministers will continue its efforts to ensure that that is a reality.

THE PRESIDENT.- That concludes questions to Mr Martonyi. On behalf of the Assembly, I thank him most warmly for presenting the communication and for the answers that he has given. Minister, this will be your last appearance in the Hemicycle in your present capacity - unless, perhaps, you make a come-back in twenty years' time. You have been very courteous and helpful and we thank you very warmly.

(The sitting, suspended at 4.23 p.m., was resumed at 4.25 p.m., with Lord Russell-Johnston, President of the Assembly, in the Chair.)

3. *Situation in Bosnia and Herzegovina - resumed debate*

THE PRESIDENT.- We now resume the joint debate on the situation in Bosnia and Herzegovina. I remind the Assembly of the arrangements for the debate that were agreed this morning. We will first hear Mrs Gret Haller, the Human Rights Ombudsperson for Bosnia and Herzegovina, after which we will resume the debate. It will be interrupted at about 6.10 pm for the replies from our guest speakers and the committees .

Speaking time in the debate is limited to five minutes. I beg speakers to observe that strictly; they have not been good at observing time limits so far today.

We have the honour of hearing Mrs Gret Haller, whom I most warmly welcome. I do not need to introduce Gret, as you all know her very well. After serving in the Council of Europe in every possible capacity you can imagine, from permanent ambassador to member of the Assembly, she is now in Sarajevo, wearing the hat of the Organisation for Security and Co-operation in Europe but doing much Council of Europe work.

What you do, Gret, is essential. If Bosnia and Herzegovina is to reconcile and heal its wounds, its people need justice and the protection of their rights. In your work, you use your vast professional knowledge and experience, but most of all your heart. You are a true friend of Bosnians, and being a true friend means being not only helpful and understanding but frank and critical if necessary.

We have been discussing the situation in Bosnia and Herzegovina since this morning. Although not formally a subject on the agenda, the country's request for Council of Europe membership was very much at the heart of the debate. Following the speeches of the High Representative, Ambassador Westendorp, and three members of the State Presidency, we are very much looking forward to hearing your views.

Mrs HALLER (*Human Rights Ombudsperson for Bosnia and Herzegovina*).- Thank you, Mr President for your warm words of welcome.

Ladies and gentlemen, during your debate this morning, many of you asked when Bosnia and Herzegovina should become a member of the Council of Europe. I should like to express some thoughts on that matter, concentrating on two aspects of human rights. I have been working in that field for three and a half years in Bosnia and Herzegovina.

First, I point out an issue that distinguishes Bosnia and Herzegovina from all the other candidates for accession to the Council of Europe. Through the Dayton Peace Agreement the European Convention on Human Rights was integrated in the domestic law of Bosnia and Herzegovina. Accordingly, the rights guaranteed in the convention are directly applicable in the country. But an appeal to the European Court for Human Rights in Strasbourg is not possible. That is why the Dayton Agreement has its own mechanism for individual complaints in relation to the state of Bosnia and Herzegovina - my Office and the Human Rights Chamber which consists of six Bosnian and eight international judges, who are nominated by the Committee of Ministers of the Council of Europe.

That description of the special situation brings me to my first conclusion. One cannot ask from Bosnia and Herzegovina, in relation to accession to the Council of Europe, more than one asked from the other candidates. What do I mean by that? More than once I have heard the request that Bosnia and Herzegovina must comply with all the recommendations from Bosnian human rights institutions before even talking about accession to the Council of Europe. Such a demand is not correct. It means that that state must have put into practice the principles of the European Convention even before accession to the Council. The other candidates were obliged to ratify the convention only after their accession. Therefore that demand can be seen as discrimination against Bosnia and Herzegovina.

I should not like to be misunderstood on the subject. At least partially there is more and more compliance with my recommendations, but the process of compliance is slow. It cannot be otherwise because many matters with regard to administration have to change. I wanted to point out, however, that the two demands are different. It would discriminate against Bosnia and Herzegovina to ask it to do something that other candidates were asked to do only after accession.

I mention the second aspect of what is a special situation. Bosnia and Herzegovina is the only country where the rights guaranteed through the European Convention are directly applicable without the possibility of an application to the European Court. Formally, the

convention can be ratified and signed only by members of the Council of Europe. Therefore, the accession of Bosnia and Herzegovina to the Council of Europe is a precondition for the normalisation of the situation - that is, the European Court of Human Rights would become competent to judge the violations of the principles of its convention in Bosnia as well.

The acknowledgement of the competence of the European Court of Human Rights is a decisive and distinguishing mark of the European culture of human rights. It means that European states are willing to give up their sovereignty and to submit themselves to a binding judgment of international public law as stated by an international court. Now, there is a state in Europe where the European Court of Human Rights has no competence. If the convention were not applicable, we would have the same conditions as in another state that is not yet a member of the Council of Europe. However, due to Dayton, the convention is applicable. Despite that, the European Court has no competence.

At the beginning of 1996 that situation was acceptable - even needed - with a review of the flagrant violations of human rights during the Bosnian war, but if the situation lasts too long it could become problematic.

The question when Bosnia and Herzegovina will become a member of the Council cannot be judged only from the point of view of whether the state has fulfilled certain conditions. The question must also be judged while recognising the European culture of human rights. If exception from human rights lasts too long, it could hurt that European culture. Responsibility for the protection of the culture lies in the Assembly. I hope you will take that into consideration when discussing the accession of Bosnia and Herzegovina to the Council of Europe.

I thank you for your attention. I understand that I will answer questions on other aspects at the end of the debate. I will be glad to do so.

(*Mr Gjellerod, a Vice-President of the Assembly, took the Chair in place of Lord Russell-Johnston.*)

THE PRESIDENT.- Thank you for being so short and clear.

Now the general debate will resume. The first to speak is Mrs Bušić.

Mrs BUŠIĆ (*Croatia*).- Fellow parliamentarians, while thanking the rapporteurs for their reports I should also like to thank the collegial Presidency for sharing their opinions with us. I am especially grateful to Mr Westendorp, the High Representative in Bosnia and Herzegovina, for all his efforts in a difficult endeavour. I personally thank him for his words on the tragic death of a very moderate Deputy Minister of the Interior, the late Jozo Leutar, who lost his life in a car bomb in Sarajevo - the city where he lived and that he loved dearly. I hope sincerely that that tragedy will mark an end to the series of attacks on Croats in Bosnia and Herzegovina which, unfortunately, have so far not been resolved. I kindly urge the authorities to step up investigations in all such cases.

We all know that Bosnia and Herzegovina does not presently meet the requirements and conditions that are needed to become a fully fledged member of the Council of Europe. That country needs some time to heal its wounds and to achieve the standards that are needed

to be a member of this institution. However, despite all its difficulties and shortcomings, we should support the country's speedy accession to this European organisation.

All countries in transition attach great importance to this democratic institution which is considered a stepping stone to every other European and international organisation. That would strengthen the state institutions and speed up the implementation of the Dayton Agreement. In addition, early membership would be an incentive for all three communities in Bosnia and Herzegovina. It would give a positive signal to the Serb community, which is in a period of high uncertainty because of the unfolding situation in Yugoslavia. It would also encourage the Croatian community in Bosnia and Herzegovina which over the past few years has been losing confidence in the Dayton peace process and in the international community.

The prospect of Europe will encourage and give hope of survival, which is now rare in Bosnia and Herzegovina. Membership in this esteemed institution, an institution of tolerance, democracy, rule of law and human rights, would transform Bosnia and Herzegovina into a multinational, multicultural country where different cultures and allegiances will be respected while recognising and developing common interests in universal values. This country and its people, exhausted by a horrible war, deserve a helping hand, which I hope that we shall give generously.

THE PRESIDENT.- Thank you Mrs Bušić. I call Mrs Squarcialupi.

Mrs SQUARCIALUPI *(Italy)* recalled her presence in Bosnia after the negative verdict of the three legal experts. It was clear that Bosnia and Herzegovina was a complicated entity with which problems remained. There had been disappointment about the pace of progress, but she wished to look at the more positive aspects. The representatives of Bosnia and Herzegovina had come to the Assembly together, and there were signs that wounds were healing despite the hindrance of progress. There had been signs of prudence and reason despite the negative influence of ultra-nationalism. This could all provide lessons for the future. There was still time for the conditions to be met regarding accession to the Council of Europe; though the task was surely great, the will was there. Recalling a cartoon she had seen in an office window in Sarajevo, she said that a road which had cost 250 000 lives led, all the same, to Europe. She hoped to see smiles on the faces of the Serbian refugees in Sarajevo, and those elsewhere. Supporting the report she stated that more attention should be paid to the Balkans.

THE PRESIDENT.- Thank you Mrs Squarcialupi. I call Mr Nagy.

Mr NAGY *(Hungary)*.- We are all aware of the strong connection between Bosnia and Herzegovina and Kosovo. If the Kosovo crisis is not solved, the fragile situation in Bosnia and Herzegovina and the Dayton peace agreement could also be in danger. The implementation of the peace agreement has already reached the consolidation phase, but it is not irreversible. It has been proved that there is no peaceful alternative to Dayton and that only the accurate implementation of the principles set out in the agreement can lead to a stable peace and a self-sustaining economy in Bosnia and Herzegovina.

I welcome the fact that the most recent elections were conducted in accordance with the relevant regulations. The newly elected Presidency has been taking a more pragmatic approach in decision making. The reform of the Council of Ministers was supposed to make

the work of the central institutions more effective. Although the moderate political forces gained more support, the expectations of the international community seem to have been excessive.

There have already been some positive results: freedom of movement has improved; basic laws have been passed; and the official currency has spread. I strongly believe that a further presence of international troops is necessary. The extended and active role of SFOR and the control of military resources and the border with Yugoslavia can contribute to a long-lasting and self-supporting military balance between the two entities. The efforts of the Organisation for Security and Co-operation in Europe and the High Representative to establish peaceful reconciliation in the country are greatly appreciated and I fully support the widening of the High Representative's scope of authority. The special status agreement of the federation of Bosnia and Herzegovina and Croatia is an important step forward. Those results could help to guarantee greater confidence among the three peoples of Bosnia and Herzegovina. However, distrust still impedes the operation of a united administration.

There are several measures that could contribute to peaceful co-existence. First, we need an accurate definition of the spheres of authority of the central state and the entities and we have to establish a central administration for the state of Bosnia and Herzegovina. Secondly, the constitutional equality of the three nations is indispensable, as is the deletion of the aspects of the entities' constitutions that contradict the central state constitution. Thirdly, we must implement a programme that enables minorities to return. That requires a differentiated approach for the different regions, a minimum quota of returned refugees, help to the special regional envoys and the provision of compensation or exchange of real estate for those who cannot return. In the current situation in the region, our pre-eminent interest is in strengthening the internal stability of Bosnia and Herzegovina and the democratic development of that country. That should be based on the mutual respect of different ethnic groups.

I hope that the efforts of the international community will be successful and that that will encourage the peoples of Bosnia and Herzegovina to build a peaceful common future. If so, it will show a positive example in the south Slavic region.

Thank you for your attention.

THE PRESIDENT.- The next speaker on the list is Mr Prusak. He is not here. The next speaker on the list is Mr Kostytsky. He is not here either. I call Mr Begaj.

Mr BEGAJ *(Albania)*.- I fully agree with the report on Bosnia and Herzegovina. I am happy to see here today in the hemicycle the three members of the Presidency of Bosnia and Herzegovina, a country with which my country has very good relations. I hope that the obstacles can soon be overcome and that Bosnia and Herzegovina can become a member of the Council of Europe. We know of the difficulties that that country is facing and we are aware that the risk of bloodshed still exists.

Bosnia and Herzegovina suffered so much in the recent past. Its citizens can understand what is going on in Kosovo and that there is a real risk of the atrocities spreading to neighbouring countries, including Albania and Bosnia and Herzegovina. I thank the people of Bosnia and Herzegovina who, in spite of their tremendous difficulties, are showing

great hospitality to the deportees from Kosovo and are sharing a heavy burden with other countries such as mine. Thank you for your attention.

THE PRESIDENT.- The next speaker is Mr Saakashvili.

Mr SAAKASHVILI *(Georgia).*- I wish to underline the importance of institution-building in the settling of conflicts and in conducting the means of reconciliation among the ethnic communities in Bosnia and Herzegovina. It is important to make institutions function in such a way that they become ethnically blind. The way to do that, as underlined by the report of the Ombudsperson, is to create an independent judiciary. That would create trust among the people and make the judiciary the objective arbiter of disputes. The influence of the judiciary must be increased and it must be distanced from the executive branch of power. It is important to make the judiciary politically blind and to distance it from different political forces. I suggest that there should be a new way of selecting judges. This may be through competitive examination, or some other form of competition. International help, including the expertise of the Council of Europe, could be brought in to help make judges fair and independent.

Another important matter is the law on property regarding the refugees and displaced persons. There is a universal principle in international law, expressed in Latin as *ex injuria jus non oritur*, that means that illegal acts can never lead to legitimate results. That must be stressed in all underlying legislation regarding the rights of refugees and displaced persons in relation to their property. "Ethnic cleansing" should never be allowed to bring even the slightest result in terms of any legitimate rights, especially in terms of the property rights of returning refugees. It is important that that is a major condition of Council of Europe membership, along with the election law and the other legislation referred to in the report. We must make strong safeguards and institutional mechanisms which will be difficult to suppress later if and when - I am certain that it will be "when" Bosnia and Herzegovina becomes a member of the Council of Europe.

Those and other legal issues must be addressed. Thank you for your attention.

THE PRESIDENT.- The next speaker is Mr López Henares.

Mr LÓPEZ HENARES *(Spain)* considered that the proposed membership of Bosnia and Herzegovina would be a step forward in allowing it to join the European family. The Balkan problem had been endemic for centuries, causing changes and conflict. The problem affected all of Europe. A solution to the problem would realise all of the Council of Europe ideals. The state institutions should work adequately in Bosnia and Herzegovina.

THE PRESIDENT.- Thank you, Mr López Henares. I now call Mr Volcic.

Mr VOLCIC (*Italy*) said the task in Bosnia and Herzegovina was to move from a protectorate to an integrated democracy. It was not possible to move forward in fits and starts; small steps and modest successes were required. The presence of the three Presidents at the Council of Europe could not have been contemplated three years ago. It was possible that Swiss cantons could provide a model for Bosnia and Herzegovina. It was important to let time take its course and recognise and to understand the architecture of former Yugoslavia. Haste would be the enemy of perfection. Whilst it seemed grotesque that there

should be three languages rather than one in Bosnia and Herzegovina, perhaps this should be accepted. Languages had always been important in the Balkan context. If Bosnia and Herzegovina was accepted into the Council of Europe, there was a need to set targets for membership that were achievable. That might create an optimistic scenario.

THE PRESIDENT.- Thank you, Mr Volcic. Mrs Shakhtahtinskaya, you have the floor.

Mrs SHAKHTAHTINSKAYA (*Special Guest from Azerbaijan*) thanked the rapporteurs for their report. She was pleased that, despite difficulties, the Dayton Agreement had shown results. Whilst recent developments had slowed the implementation of the Dayton Agreement she hoped that people in Republika Srpska would realise where extremism lead. She supported the rapporteur's opinion that Bosnia and Herzegovina's presence in the Council of Europe would strengthen their constitution. There was a need to help that country to stand on its own feet. She believed that Bosnia and Herzegovina would soon become a model of tolerance.

THE PRESIDENT.- Thank you. I give the floor to Mr Solé Tura.

Mr SOLÉ TURA (*Spain*) said that sixty years previously Spain had been in a similar situation to Bosnia and Herzegovina now. The civil war had led to hundreds of thousands of refugees, and had forced Spaniards to think carefully about the future. Consideration of the future had facilitated the transformation to democracy and social progress. Spain was now fully integrated into both the Council of Europe and the European Union. He hoped that this would also happen eventually to Bosnia and Herzegovina.

At the meeting of the Assembly that morning, the three members of the collegial Presidency of Bosnia and Herzegovina had displayed a spirit of co-operation which gave hope for progress. He hoped that Yugoslavia might also be welcomed into the Council of Europe in the near future. The task of the Council of Europe was not only to integrate those countries which were already democracies into the European family but to encourage those countries working towards democracy. Co-operation and encouragement were crucial, because if Bosnia and Herzegovina could not achieve democracy it would not augur well for the future of Europe as a whole.

THE PRESIDENT.- Thank you very much. The next speaker will be Mr Bičakčić.

Mr BIČAKČIĆ *(Special Guest from Bosnia and Herzegovina)* said that at last, after five years as a Special Guest, there was now a glimmer of hope that Bosnia and Herzegovina might become a full member of the Council of Europe. The members of the multi-party delegation were willing to discuss matters further with the rapporteurs if necessary. The speeches by the members of the collegial Presidency that morning had shown that the new institutions in Bosnia and Herzegovina were indeed working. All the points in the Madrid Declaration, including changes to the Council of Ministers, were being addressed. The central bank was functioning and the currency was now convertible. The constitutional court was also functioning and was currently involved in discussions with individuals and organisations from both entities. The state parliament was working and had passed a range of laws. Consensus had been achieved on the symbols of the country. The diplomatic service was also operating in a number of countries.

There was, however, still room for improvement and Bosnia and Herzegovina needed assistance to become a full member of the Council of Europe. Improvements to the education system had been mentioned. Assistance was needed to ensure that all pupils were taught the same history, whilst recognising linguistic and cultural differences.

THE PRESIDENT.- Thank you, Mr Bičakčić. The next speaker is Mr Dinçer, but I do not see him. No, he is not present. I therefore call Mr Dokić.

Mr DOKIĆ (*Special Guest from Bosnia and Herzegovina*) said that there had been scepticism and the Dayton Accord had been questioned, but despite difficulties he emphasised there was no alternative. Indeed, there were still important political forces in favour of a Dayton II or III. A balance had to be struck between achieving a uniform system and the acknowledgement of hopes for some degree of separation. Dayton had gone some way towards reconciling historical differences, although there was room for improvement and patience was needed. Political decision-making had to be underpinned by democratic institutions. Recent arbitration decisions had been outwith the Dayton Accord; it was important to involve the constitutional assembly in Bosnia and Herzegovina in discussing these. Another point related to the refugees: resolution of this situation would need a plan, together with honest and frank attitudes. Relationships with Croatia and the Federal Republic of Yugoslavia were important for long-term stability. What had happened in Bosnia and Herzegovina had been an unfortunate civil war. The truth needed to be told, and a preoccupation with history should not be allowed to compromise the future.

THE PRESIDENT.– Thank you, Mr Dokić. The penultimate speaker on the list is Mr Zhebrovsky.

Mr ZHEBROVSKY (*Russia*) said that matters must not get out of hand, to the extent of war. The bombing of Yugoslavia was an example of such a mistake. This would lead to similar problems such as those in respect of refugees. Dayton had stopped a war, but its other achievements, such as elections and property rights, were modest. Quality of life was worse than it had been ten years ago in the old Yugoslavia; the European Community had been at fault here. Civil wars and ethnic conflicts took decades to resolve and much now depended on the education of children.

The focus should be on education and growth together with the school curricula, which should receive maximum effort. Another important but expensive necessity was the provision of independent television and radio services, which would inform the people and allow them to communicate. These services should be free from political influence. Without trust there would be no peace. The focus should be on children since they were the future.

THE PRESIDENT.- I call Mrs Filipović, the last speaker on the list.

Mrs FILIPOVIĆ (*Special Guest from Bosnia and Herzegovina*).- It is a privilege to address you again in the Council of Europe.

As we all know, Bosnia and Herzegovina is again high on the Council of Europe's agenda. However, not only Bosnia is being discussed in the region. That needs to be kept in mind at all times. Recently, the whole region has come into a different perspective. The latest Nato action might mark not only the end of crises in the whole region, but the beginning of its stability, on the road to joining the rest of the European family.

Whichever solution is achieved I am of the strong opinion that new relationships in the region will be based on mutual respect, tolerance and respect of all human rights in all states. Let us hope that, at the beginning of the twenty-first century, we will see, not only in our region but in the whole of Europe and the world, an end to the sometimes strong and always counter-productive desire to rule over someone through repression.

In that context, allow me to make three points on the present position in Bosnia and Herzegovina, which are of vital importance in relation to admission to the Council of Europe. I start by echoing the words of Lord Russell-Johnston during his inauguration speech in January, where he said that tributes should be paid to those who work relentlessly to bring peace to my country. For their sake and for the sake of the example that they set for our children, Bosnia and Herzegovina needs to be admitted as soon as possible.

There are still many problems for us to solve in Bosnia and Herzegovina. The everyday desire for better living standards will lead to many of those issues being solved properly. However, that is not enough. Some political mechanisms can be used in a democratic system to slow that inevitable process. Therefore, we need a political vision that becomes a reality and is dedicated to serving people. That should be encouraged through the admission of Bosnia and Herzegovina to the Council of Europe. Otherwise, those who live in Bosnia and Herzegovina will receive the dangerous message that brutal strength and strong control pay off. Such a message in Bosnian history has brought us to where we are today.

Even today, Bosnia and Herzegovina cannot control its borders fully. As there is no control of the borders there is no control of state or entity incomes. Without that financial element, there is no desire for the institutions to function as power is elsewhere - with those who have money. That is one of the most important reasons why the parliaments and governments in Bosnia and Herzegovina cannot function fully.

Admission of Bosnia and Herzegovina to the Council of Europe as a state will strengthen the calls for the establishment of proper control of the borders and the parliament will start to function. In addition, and perhaps even more important, admission will prevent any further thinking about again importing conflicts to its territory and will finally confirm that Bosnia and Herzegovina has only one capital city.

Those are the points on the question of our quick admission. I pay special tribute to the rapporteurs who came to see us during some of the most difficult times since Dayton - Mrs Gelderblom-Lankhout and Mr Bloetzer. I express my deep disappointment at the cancellation of the announced trip by a high-level delegation from the Council of Europe to Sarajevo. I hope that we will see the delegation there soon and that it will lead to us seeing you here again soon. Thank you.

THE PRESIDENT.- That concludes the list of speakers. I understand that our three guests from the collegial Presidency of Bosnia and Herzegovina, Mr Jelavic, Mr Izetbegovic and Mr Radisic, are in a hurry because they are supposed to attend a meeting, but if some of them would like to take the floor to make a few short remarks they are welcome. You can see that that would be appreciated.

Mr RADISIC *(Chairman of the Presidency of Bosnia and Herzegovina)* thanked the Assembly for its positive contribution.

THE PRESIDENT.- We thank you all for being here today and for listening to so many speeches by people from many different countries. It was a pleasure to have you here.

I call Mrs Haller to reply to the debate.

Mrs HALLER (*Human rights Ombudsperson for Bosnia and Herzegovina*).- Thank you for giving me the floor again, Mr President. I should like to make a few short remarks about what the rapporteurs have said and I shall finish with a personal statement.

Mr Bloetzer, Rapporteur of the Political Affairs Committee, said that the Parliamentary Assembly must take a political rather than a legal decision. I understand what he meant and I would never dare to comment on the opinion of a rapporteur. However, I should like to add something. The issue is a legal one as well. The answers to the legal questions can lead one to believe that the process of accession to the Council of Europe should be speeded up. That does not contradict what he said.

(The speaker continued in French.)

The rapporteur of the committee had said one very important thing during his statement, namely, that in people's minds in Bosnia and Herzegovina the war still continued. It would take a generation before people no longer were at war in their minds. It was not easy to move people's minds out of war mode, there was much to do before the mentality of the people changed. She wondered whether it was possible to keep Bosnia and Herzegovina at the doorstep of the Council of Europe until such a process had been completed and added that she believed that it was necessary to admit Bosnia and Herzegovina to the Council of Europe. The Council of Europe already had many contacts in Bosnia and Herzegovina and allowing that country membership would help overcome the war mentality. She had seen changes since the Dayton Agreement which were far-reaching and drew attention to messages she had received from Bosnia and Herzegovina that they were expecting signals from the Council of Europe. There were people in Bosnia and Herzegovina with high hopes for the future and these should be sustained.

THE PRESIDENT.- Thank you very much, Mrs Haller. I call Mr Kollwelter, Rapporteur of the Committee on Culture and Education, to reply. You have seven minutes.

Mr KOLLWELTER *(Luxembourg)* said that, whilst there were education matters affecting Bosnia and Herzegovina's membership of the Council of Europe, he wanted to consider other matters too. By suggesting a five-year moratorium on the teaching of recent history he was not suggesting that matters be forgotten but that time should be allowed for forgiveness. It was important to point out that schools should become sanctuaries within Bosnia and Herzegovina and agreement reached on curricula. He pleaded for a school of tolerance. He would like to see a multi-ethnic school there. There was a need for proper training and progress to raise and maintain standards of human rights. He thought there was need for more collaboration between Committees of the Council of Europe. Whilst the Dayton Agreement was welcomed, some amendments were required in the sphere of education. In conclusion, he wished to suggest the parallels between what had happened in Bosnia and Herzegovina and was now happening in Kosovo. When the war in Kosovo was over, similar issues would have to be addressed as were now being addressed in Bosnia and

Herzegovina. The experience in Bosnia and Herzegovina might therefore be useful in the future.

THE PRESIDENT.- Thank you. I now call Mrs Gelderblom-Lankhout, the Rapporteur of the Committee on Legal Affairs and Human Rights.

Mrs GELDERBLOM-LANKHOUT *(Netherlands)* noted that speakers had stated that reconciliation should be the ultimate goal. It was possible to live together without being intimate friends, however. She agreed that there was no alternative to the Dayton Agreement, but the agreement itself was only a starting point. Bosnia and Herzegovina needed assistance to enable it to move forward. She sensed that the rapporteurs were reflecting the views of the Assembly in this regard. Further aid and assistance was needed to trigger co-operation. The language problem was important, but funding would have to be found for translation services. Full membership of the Council of Europe might be possible by the end of the year if Bosnia and Herzegovina could comply with certain conditions. However, measures had to be in place and open to scrutiny.

She paid tribute to Mrs Haller, who had witnessed harsh realities on a day to day basis. The situation had improved, but there was still a long way to go. She would examine further the issue of the powers of the European Court of Human Rights. Mrs Bušić had mentioned recent murders and assassinations. It would be unacceptable if the authorities did not look into these cases and she would pursue the matter further. With regard to education, it was crucial that young people were made aware of all points of view. If this did not happen there was the danger that they might repeat the mistakes of their elders.

THE PRESIDENT.- Thank you. I have been informed that the next seven minutes is to be shared between the Chairman of the Political Affairs Committee, Mr Ruffy, and the rapporteur, Mr Bloetzer. I call Mr Ruffy.

Mr RUFFY (*Switzerland*) said he thought that the whole Assembly would welcome the full membership of Bosnia and Herzegovina in the Council of Europe and he hoped many of the words of encouragement would be followed up.

President Izetbegovic had stressed the need to learn the art of dialogue. He wholeheartedly agreed with him. The churches had a responsibility in establishing a universal approach. He reminded the Assembly of the functions of the Council of Europe and of the role of representatives in their home countries. The Council of Europe was aiming to eliminate ultra-nationalism, a resurgence of which was being seen in Bosnia and Herzegovina. It was regrettable that military force was sometimes needed to guarantee respect for our basic values.

THE PRESIDENT.- Thank you, Mr Ruffy. Mr Bloetzer, you have two-and-a-half minutes.

Mr BLOETZER (*Switzerland*) thanked the Assembly for its attention and expressed gratitude to the High Representative, the Presidency of Bosnia and Herzegovina, and Mrs Haller for their contributions to the debate. This had helped the Assembly to grasp the issues and their importance, and would be useful in deciding the timing of the acceptance of Bosnia and Herzegovina. The accession of Bosnia and Herzegovina into the Council of Europe was important to the region as a whole. Accepting Bosnia and Herzegovina too soon

was not too great a risk to take, compared with exclusion. This was the conclusion of the committees working on the accession, and they would work with the delegation of Bosnia and Herzegovina.

THE PRESIDENT.- May I also take the opportunity to thank all those who have participated in this very important debate? The debate is now closed.

4. *Written declaration*

THE PRESIDENT.- In accordance with Rule 49 of the Rules of Procedure, a written declaration, No. 292, on ending the war in Kosovo, Document 8396, which has been signed by five members, has been printed. Any Representative or Substitute may sign the declaration in the Table Office, room 1083. If any names are added, the declaration will be distributed again two weeks after the end of the part-session, with all the accumulated signatures.

5. *Kosovo debate - timing*

THE PRESIDENT.- The President has asked me to announce that at the beginning of business tomorrow morning he will seek the Assembly's approval of the following time limits for the joint debate on the crisis in Kosovo: for speakers in the debate other than rapporteurs, four minutes; and for all speakers on amendments, one minute. The proposal will be made because there are already more than 100 speakers on the list and 62 amendments have been tabled. I think that we will have to adopt the President's proposal.

Is that agreed?...

It is agreed.

(*Mrs Durrieu, Vice-President of the Assembly, took the Chair in place of Mr Gjellerod.*)

6. *Progress Report of the Monitoring Committee*

THE PRESIDENT (Translation).- The next item of business this afternoon is the debate on the progress report of the Monitoring Committee for 1998-99, presented by Mr Solé Tura on behalf of the committee (Document 8359). The report is for information.

The list of speakers closed at 12 noon today. Eleven names are on the list. In view of the time available and the number of speakers on the list, I propose that speaking time in the debate be limited to five minutes. In order to finish by 7.30 p.m., we must conclude the general debate by about 7.25 p.m. to allow time for the reply on behalf of the committee.

Are the arrangements agreed?...

They are agreed.

I call Mr Solé Tura to present his report.

Mr SOLÉ TURA *(Spain)*.- Thank you, Madam President.

Resolution 1115 (1997) requires the Committee to report to the Assembly once a year on the general progress of the monitoring procedures. This is the second progress report on the activities of our committee. It is a brief report based on a series of tables which appear in the appendix for reasons of clarity and celerity.

Appendix A summarises the state of procedure with regard to all ten member states currently under monitoring procedure. Appendix B shows the state of signatures and ratifications of Council of Europe conventions. Appendix C shows the main areas that have been covered under monitoring procedure. Appendix D refers to relations between the Assembly and the Committee of Ministers on monitoring issues. Appendix E shows the meetings that the Monitoring Committee or its representatives held with representatives of international organisations. Finally, appendix F shows the composition of the committee by indicating the members appointed, the co-rapporteurs and so on. That gives a general overview of the report.

Appendix A shows that the Monitoring Committee has progressed in all ten procedures under way. We presented information reports on Russia, Bulgaria and Turkey. Our report on Ukraine led to the adoption of the resolution and recommendation. A report on Croatia is to be discussed during this session. A draft report on Moldova is being prepared with a view to an Assembly debate in June or September 1999. Comments were received from national parliamentary delegations relating to preliminary draft reports on Latvia and Slovakia. Draft reports are being prepared on "the former Yugoslav Republic of Macedonia" and on Albania. Those reports have not yet been written because of the fast-changing situation in those countries.

Appendix B contains some interesting figures. For example, three states - Albania, Bulgaria and Turkey - have not signed protocol 6. Three other countries - Latvia, Russia and Ukraine - have signed it but not yet ratified it. It is notable that few states have ratified the Charter of Regional or Minority Languages and the revised Social Charter.

Appendix C raises questions about monitoring procedures. It shows that almost all states subject to monitoring have in common a number of specific commitments such as those related to the judicial system. The fact that the Monitoring Committee is assisting several member states simultaneously in the honouring of similar commitments seems to justify the question that we raise - whether, in such cases, one thematic report would not prove to be more efficient. That is an open question; we have no answer, but we consider it important to discuss the possibility of issuing thematic reports, even in cases where the Monitoring Committee is instructed to examine one or several issues of immediate concern in a state that is being monitored.

An important aspect of our report is the committee's relations with the Committee of Ministers. In the Assembly this afternoon the Chairman-in-Office of the Committee of Ministers raised the question. I believe that we are moving in the right direction. The relationship between the two committees has considerably shortened the delay in producing recommendations related to monitoring. For example, in the case of Albania in 1997, the delay was sixteen months, whereas in the most recent monitoring, the delay was four months. The delays are shorter but they still exist. I do not insist on our relations with the Committee of Ministers, but we are hopeful because, for example, the Committee of Ministers has

decided no longer to classify its documents relating to monitoring as secret rather than confidential. That is a helpful step, as the role of the two committees is complementary.

On the issue of co-operation with the states being monitored, we stress the fact that the resolution and recommendation following the monitoring of Ukraine, which were highly critical, were adopted unanimously by the Assembly, including members of the Ukrainian parliamentary delegation. It is interesting that our report on Bulgaria was considered by the Assembly last year and was also discussed in the Bulgarian Parliament.

In conclusion, I raise the question of the philosophy of monitoring. Is our Monitoring Committee an instrument of control or of assistance? Is it both at the same time? In my view, the object of the Monitoring Committee is not only to follow countries in the implementation of their commitments. Our task is to help them. For example, since the first draft report on Albania a year ago, we have not written another report but we have helped Albania to build democratic institutions such as the constitution, the judiciary and the parliament. We have helped to build a democratic state.

A further question arising from our discussions concerns standards. Which members of the Assembly are to be monitored - only those that have joined most recently or all countries, and under what conditions? I should be interested to hear the opinions of the Assembly on that.

That is the essence of our information report, in which I hope you will find all the issues that we have been discussing in our organisation.

THE PRESIDENT (Translation).- The first speaker will be Mr Atkinson of the United Kingdom.

Mr ATKINSON (*United Kingdom*).- I think that this is one of the most important debates this week - indeed, as an annual debate, of our entire parliamentary year. Monitoring is today one of the Council of Europe's key tasks – second only to the work of the European Court. It is one of the principal justifications for our Assembly and our Organisation as Europe's pre-eminent, pan-continental institution.

The establishment of the Monitoring Committee two years ago was a far-sighted decision by this Assembly. It was a natural progression, arising from the democratic revolutions of 1989, to which we had responded so wisely, giving special guest status to countries that were committed to fulfilling the conditions of membership. The eyes of human rights organisations and our critics follow our work closely, respecting and applauding us when we have got it right, condemning us when we have failed to hold member states to account.

The second annual report, like the first, alongside the individual country information reports that we have published, shows where our standards have been upheld and where they have not. Our information reports are worthy works of reference for all those who are interested - from non-governmental organisations to governments - and are now a source of information for the acquis reports on countries that are applying for accession to the European Union. This Assembly should pay tribute to the committee secretary, Guy Dufour, and his staff in that respect.

As one of the committee's co-rapporteurs on Bulgaria with Mr Gjellerod, and having undertaken three fact-finding visits to date, I can speak from experience about the exhaustive and complex work that must be done to cut through the contradictions, dilemmas, and the allegations of government and opposition and those in the media in order to get at the truth about where a country has succeeded in fulfilling its obligations. In doing so, there is no doubt in my mind that we contribute to that progress.

In Bulgaria, for example, Mr Gjellerod and I visited the country for the third time in February in the wake of a flurry of activity and progress for which we were described in the media as "the Viagra of Bulgarian democracy". One newspaper suggested that the main square in Sofia be renamed Atkinson-Gjellerod Square. We were happy to applaud that progress at our concluding press conference, which will be reflected in our next report, together with the further progress which we expect to be made.

We particularly applauded the Bulgarian Parliament for holding a debate on our information report. We should encourage the parliaments of every monitored country to emulate that practice. They should debate the information report following debate on it in this Assembly in order to enable members of parliament of all parties, the media and the public to understand better the standards to which their countries are committed, and on which depends the ending of monitoring. I hope, for example, that the newly elected parliaments of Turkey will seek to debate the Bársony-Schwimmer report, which will do much to contribute to a better appreciation of the obstacles that remain in the way of its accession to the European Union, which many of us here want.

I propose two innovations in our procedures which arise from the experience of our monitoring work. Tomorrow, we will debate the Jaskiernia-Stoyanova report on Croatia. That proposes that measures are taken by the Croatian authorities within deadlines that have been set in agreement with its parliamentary delegation. I applaud such an approach, which emulates that of Mr Terry Davis in recommending the accession of Georgia during our last part-session. Other monitoring rapporteurs would do well to follow it.

Secondly, although the establishment of a parliamentary ombudsman is not a condition of membership of the Council of Europe, there is no doubt that it is a desirable accompaniment as an indication of respect for democracy and the rights of citizens in relation to government authorities. The Council of Europe has been active in promoting the institution of the ombudsman in the new democracies, with seminars organised to help governments set them up. Our monitoring rapporteurs should be following up this work by encouraging the establishment of an ombudsman as a voluntary demonstration of the application of best practice among member states - and referring to that in their reports.

We need no reminding of the criticism that we have endured in allowing the accession of member states which have clearly not reached our standards. We have never refuted that. We have always made it clear that we make a political judgment. In some cases, we have been vindicated; in others, the jury remains out. At the end of the day, the ultimate test of membership is guaranteeing access to the European Court of Human Rights for individual petition for all who seek it. That is the ultimate aim of the Monitoring Committee's work.

THE PRESIDENT.- The next speaker is Mr Jaskiernia, who speaks on behalf of the Socialist Group.

Mr JASKIERNIA (*Poland*).- Members of the Socialist Group agree with Mr Atkinson's presentation. The monitoring procedure is a crucial element of the Assembly's job. One colleague in the group even says that although we do not know what the Assembly will look like in the next century, surely the monitoring procedure will remain the same specific and very important element which we pursue today.

I congratulate Mr Solé Tura on his very important and good report, and on the appendices, which describe very clearly the monitoring procedure.

I should like to express several points in this important debate. First, an effective monitoring procedure is necessary. For it to be effective, it must not only describe problems and create information but set deadlines, as we do in the report on Croatia and as we did in the report on Georgia's accession. One of our mistakes has been that we have not set deadlines for countries that were interested in acceding to the Council of Europe. As a result, they have not known by which time they should have fulfilled the obligations expected of them.

Secondly, we should clearly divide the powers of the Monitoring Committee, the Political Affairs Committee and the Committee on Legal Affairs and Human Rights because, from time to time, there are clashes. We should decide whether every case should go before the Monitoring Committee and whether it should deal only with the honouring of obligations.

Thirdly, I should like to raise the question of co-operation with the Committee of Ministers. Some people say that there are two Councils of Europe: one in the Parliamentary Assembly and one in the Committee of Ministers, which also operates a monitoring procedure. But, do we know about the latter's procedure? Do we receive information on it? Of course there are some joint meetings, but that is not enough. Our case-by-case monitoring is a little different, so there should be better co-operation with the Committee of Ministers.

I should like to address some of the new problems that we are encountering. Yesterday, for example, we debated a report on internal security services. Although we do not know when we shall have a framework convention on the matter, the issue has been referred to the Monitoring Committee. Given such an interesting problem, perhaps the rapporteur will answer the following question: under what procedure should this be done? Should the list of member states to which we apply the procedure include only newcomers? Should we apply it to all countries that are being monitored? What about those for which monitoring procedures have been ended? Do we have the power to set obligations which countries that are applying for membership of the Council of Europe should honour? Those are important questions.

In the Socialist Group generally we think that we should concentrate not only on a legalistic approach to monitoring - checking how institutions appear to adhere to the law - but on political and legal practice. We should have more time to talk to the people, the opposition, churches and other groups in order to guarantee that our job is balanced.

I thank Mr Atkinson for stressing that the deadline in the report on Croatia written by Mrs Stoyanova was agreed with the Croatian delegation. We are not the police; we are not prosecutors. We are just friends who are trying to help each other. It is important when we offer reports that it is with the agreement of national delegations. We can have the guarantee that they are ready and have done everything to meet the deadlines. We could face the

situation of a country missing the deadline. We should like to avoid that. If we are serious in the Parliamentary Assembly, we should not exclude such a possibility.

Again, we stress the importance of the procedure. We think that, step by step, we are developing that procedure. At the starting point, we had several questions, not solutions. Now we have several solutions. We have better experience. We follow up the reports in every session. We think that monitoring will be an important part of our activities.

THE PRESIDENT.- (Translation) Thank you. I now call Mr Muehlemann from Switzerland.

Mr MUEHLEMANN (*Switzerland*) said that preventative activity was as important as monitoring. Although monitoring had had an impact, there was a need to warn countries before things went wrong. Countries should not only be monitored but actively encouraged to make improvements where necessary. The various committees of the Assembly should, where possible, visit the countries concerned and should be encouraged to share their views with each other.

THE PRESIDENT (Translation).- Thank you. The next speaker is Mr Kelam.

Mr KELAM (*Estonia*).- Thank you. I have the privilege to speak on behalf of the Group of the European People's Party. I thank our colleague Mr Solé Tura for an excellent report and also the staff of the Monitoring Committee. I have some idea of the complexities and time-consuming nature of finalising such an analysis but it is useful to have a survey of the monitoring process.

We clearly see what the most popular topics, so to speak, are in relation to monitoring in the ten countries. The most popular topic is minorities, which was covered in all ten cases. The second most popular was the judicial system and the third freedom of expression and the media. That was followed by local self-governance. That is instructive. The least popular topic was equality between men and women which was not covered at all. Then came special powers on occasional emergencies, political parties and policies to combat racism and anti-Semitism; it was mentioned in only two cases. That is not a criticism. Our rapporteurs know what should be done. It is a useful survey of the problems.

That brings me to one of the ideas that was expressed during the Monitoring Committee's meetings: a survey about the state of affairs in all member states in the Council of Europe, not only states that are under the monitoring procedure. Another idea is presented in paragraph 7 of the report: the possibility of the Council of Europe, when assisting several member states at the same time to honour similar commitments, making a thematic report, which could prove to be more efficient. Such a topical approach should be discussed ; it could be taken. If we could implement those ideas, it would perhaps make possible a smooth and logical transfer from monitoring new democracies and their specific commitments to general monitoring of both old and new member states. That would allow a fitness test, so to speak, of democracy and the rule of law in all member states of the Council of Europe.

At this stage in monitoring, what is important is closer co-operation with international organisations, including the European Union, the OSCE and non-governmental organisations in particular. NGOs have given us valuable information about police violence and violations of the rights of citizens in Ukraine. The first working meeting between the Council of

Europe rapporteurs, EU representatives and the Ukraine parliamentary co-operation committee took place in Brussels in September last year. In January the progress that has begun was referred to in paragraph 6 of the resolution on Ukraine. The contents of our resolutions have been transmitted to organisations such as the European Parliament, the European Commission, the Organisation for Security and Co-operation in Europe and the International Monetary Fund, inviting them to take what we have said into account in their attempts to help Ukraine.

The key issue for the success of the monitoring process is satisfactory and fruitful co-operation from the states being monitored. We all know from our experience how valuable that is.

THE PRESIDENT (Translation).- Thank you Mr Kelam. The next speaker is Mr Glotov, but he is not here. I call Mr Speroni.

Mr SPERONI *(Italy)* commented that internal democracy within the Council of Europe itself was desirable; as a member of the *non inscrits* he was excluded from meetings of the committee which were often held *in camera.* In view of the number of countries in the Council of Europe, all of whom were affected by the monitoring process, the committee ought to be expanded in size. He welcomed the membership of Georgia to the Council of Europe. Anti-democratic laws still existed, even in countries like Italy where this could be attributed to the legacy of fascist dictatorship. Accordingly, the Italian code should be monitored. Another example was provided by continuing proceedings in Turkey.

THE PRESIDENT called Mr Yürür, but he was not there. Mr Dumitrescu was called.

Mr DUMITRESCU *(Romania)* wanted to speak both as a Romanian and a committee member. He noted that democratisation in Romania was being fully supported by the Council of Europe and the follow-up procedure under discussion had great benefits for member states in general. Examples could be cited in the cases of capital punishment and the regulation of security forces. An excellent report had been presented. The mandate of the committee needed to be considered, particularly with regard to its scope. Observation and understanding were both needed to obtain a clear idea of what was going on in a country. The interaction of the different committees should also be considered. The aim was an adequate and transparent monitoring system.

THE PRESIDENT (Translation).- Thank you, Mr Dumitrescu. The next speaker is Mr Popescu from Ukraine.

Mr POPESCU *(Ukraine)* said that it was necessary to preserve freedoms, both political and economic, to provide stability. Internal domestic legislation needed to be harmonised with other European states and Ukraine was ready to comply. In March 1997, his country had agreed a moratorium on the death penalty which had now been considered by the constitutional court and was likely to become law by May. Proposals for the use of minority languages had been returned to parliament for improvement and were likely to be implemented by June. The ratification of the Social Charter was proving difficult, particularly since pensions and salaries for public servants were regularly being paid late. Large companies were losing money and were dependent on the government for support. Nevertheless, he remained full of optimism. He congratulated the Monitoring Committee and noted that the continuing problems in the Balkan region covering political, ethnic, religious,

social and economic rights needed to be resolved in order to avoid further conflict. The Monitoring Committee should increase its work in order to preserve basic rights and to avoid a further world war. He thanked the rapporteurs for their valuable work.

THE PRESIDENT called Mr Solé Tura, Rapporteur of the Monitoring Committee to respond to the debate.

Mr SOLÉ TURA *(Spain)*.- I thank colleagues for their comments, observations and criticisms. The debate has followed our discussions about our commitments and our future.

I agree with all that I have heard, but I want to refer to two points. First, I wish to deal with the effectiveness of our monitoring procedure, to which Mr Jaskernia referred. That is linked with our relationship with the Committee of Ministers, but not only that. In general, our reports are extremely good. However, we feel that after the approval of the reports, we do not know what happens with them. Our relationship with the Committee of Ministers could help to solve that anguish.

In our meetings with the committee, we have agreed on shortening the answer period. That is important, but it is not enough. That relates to my second point, which was raised by colleagues, including Mr Kelam and Mr Speroni, about who is to be monitored. We are limited to countries that are recent members of the Council of Europe, but we have the opportunity to carry out some monitoring procedures on other countries. In our meeting this morning, I gave an example which surprised Mr Atkinson; I wondered whether we could monitor the Ulster process. I know that that was an odd example.

Other matters also need to be monitored and I agree that we must find a way of combining thematic documents and procedures with other procedures related to specific items in every country. We must not limit our action to only one, two, three, four or ten countries.

I agree with what Mr Dumitrescu says about the need for new mechanisms but I am not sure what those mechanisms should be, so we need to discuss that. I say to Mr Muehlemann that we should indeed co-operate with other committees, but we must be careful not to create confusion between our different terms of reference. For example, sometimes we have problems because our reports are confidential and those of other committees are not.

I am grateful for the comments that have been made and I hope that discussion will continue on our activities. Perhaps then we will find the answers to the questions that we are asking now.

THE PRESIDENT (Translation).- Thank you, Mr Solé Tura. I call Mr Mota Amaral, Chairman of the Monitoring Committee.

Mr MOTA AMARAL (*Portugal*) thanked the rapporteur for his excellent work and commended him for standing in as Chairman of the committee when it had been necessary. The debate had illustrated the challenges for the Monitoring Committee and had allowed its members to think beyond the frontiers of the committee. The committee met *in camera* but had done its best to respond to the comments from members of the Assembly.

The President thanked the committee chairman for the report and for his work. Note was taken of the contents of the report and the debate was closed.

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

THE PRESIDENT (Translation).- I propose that the Assembly hold its next public sitting tomorrow at 10 a.m. with the orders of the day which were approved on Monday, with one modification. A motion for an order has been tabled by Mr Akçali on behalf of the Committee on Legal Affairs and Human Rights, on the human rights and legal aspects of the crisis in Kosovo (Document 8395). I propose that this should be taken into consideration in tomorrow's debate on the crisis in Kosovo.

Are there any objections?...

That is not the case.

The orders of the day of the next sitting are therefore agreed.

Does anyone wish to speak?...

The sitting is closed.

(*The sitting was closed at 7.04 p.m.*)

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Correction:

In CR9, page 22: in Mr Zeman's reply to Mr Jansson, in line 4, after "solution." Delete the following sentence and insert: "There are some open property problems, as there are in some other countries. This is no special case."

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Mr Kelam (Estonia)
Mr Speroni (Italy)

Mr Dumitrescu (Romania)
Mr Popescu (Ukraine)

Report noted

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