COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Parliamentary Assembly
Assemblée parlementaire

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

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COMMITTEE ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS BY MEMBER STATES OF THE COUNCIL OF EUROPE

Draft minutes
of the meeting held in Strasbourg on 21 and 24 September 1998

PART I: Monday 21 September 1998

Ms Gelderblom-Lankhout, Vice-Chair, opened the meeting at 2 pm and welcomed the participants. She informed the committee that, following the elections held in Malta, Mr de Marco had been appointed Minister for Foreign Affairs and Deputy Prime Minister.

1. AGENDA

AS/Mon (1998) OJ 09 rev. 1

On a motion from the Chair, it was decided that items 4, 6, 9 and 11 concerning Turkey, Albania, Croatia and Moldova would be discussed during the second part of the meeting, to be held on Thursday 24 September at 2 pm.

The draft agenda was adopted with this change.

2. MINUTES

AS/Mon (1998) PV 08

The draft minutes of the meeting held in Paris on 27 August 1998 were approved.

3. BULGARIA

co-rapporteurs: Mr Atkinson and Mr Gjellerod

Doc. 8180
AS/Mon (1998) 44
AS/Mon (1998) 45

The Chair drew members' attention to two texts included among the working papers. These consisted of the comments on the information report which had been made, respectively, by Mr Toshev, Chair of the Bulgarian delegation, on 31 July 1998, and by Ms Poptodorova, member of the Bulgarian delegation and the Monitoring Committee, at its meeting on 27 August.

In preparation for the Assembly debate on the information report to be held on the same day, Mr Atkinson and Mr Gjellerod drew attention to the main points raised in their report.

Ms Stoyanova was concerned that the rapporteurs had been misinformed on certain points and hoped that those matters would be clarified during their next visit to Bulgaria.

Following a statement by Mr Van der Linden, Mr Atkinson said that the report was based on facts that had been verified during the co-rapporteurs' visit in June 1998. If changes had taken place in the intervening period, the co-rapporteurs would mention them during the Assembly debate.

Ms Poptodorova considered that the situation in her country had deteriorated, and was concerned that none of the recommendations made by Council of Europe experts with regard to the draft law on radio and television had been implemented.

Mr Bársony pointed out that the monitoring process for Bulgaria had not yet been completed. The information report had already been approved by the committee and was to be debated by the Assembly.

4. UKRAINE

co-rapporteurs : Mr Kelam and Mrs Severinsen

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The Chair informed members that the comments by the Ukrainian "executive bodies" on the preliminary draft information report, which had been sent out on 29 January 1998, had been received on 19 August and were in the files.

Mr Kelam reported on the fact-finding visit to Ukraine from 15 to 18 September 1998. The co-rapporteurs had not been consulted about changes to the programme for the visit to Odessa. During the visit, the new Ukrainian delegation had been asked to comment on the preliminary draft report on monitoring of their country. The government's comments had reached the co-rapporteurs three months late. Despite the commitments made by the Ukrainian authorities, neither the new Civil Code nor the new Penal Code had been adopted. The outcome of the elections held in March was a matter of great concern. A court was to rule on the validity of the election of Mr Holovaty, former Minister of Justice and member of the new Ukrainian delegation. However, fresh elections had been announced in that MP's constituency before the court had given its decision. Another concern

was the instruction given to local and regional authorities that they should no longer enter into direct contact with the Council of Europe.

Mr Glotov replaced Ms Gelderblom-Lankhout as Chair.

Mr Marmazov, member of the Ukrainian delegation, considered that his country's government was not honouring its commitments vis-à-vis the Council of Europe. The parliament, on the other hand, was determined to co-operate openly and freely with the rapporteurs. Most of the information contained in the preliminary draft report was accurate.

Ms Severinsen and Mr Kelam proposed that a draft report on monitoring of Ukraine be prepared for the next committee meeting with a view to an Assembly debate at the January 1999 session.

The committee agreed.

5. SLOVAKIA

co-rapporteurs: Mr Leoni and Mr Lesein

Mr Lesein said that parliamentary elections were to be held in Slovakia on 25 and 26 September 1998. An *ad hoc* committee of the Bureau was to visit the country from 23 to 27 September to observe the elections. A series of meetings would be organised in Slovakia on the eve of the elections, in co-operation with the OSCE Parliamentary Assembly and the European Parliament. A joint press conference would be held at the end of polling on 27 September. However, in view of the senatorial elections to be held in France on the same day, Mr Leoni would be the only co-rapporteur on monitoring of Slovakia to take part in the delegation.

Mr Glotov thanked Mr Lesein for his work.

6. LATVIA

co-rapporteurs: Mr Davis and Mr Jansson

Mr Jansson said that parliamentary elections and a referendum on the law on citizenship were to be held in Latvia on 3 October 1998. An *ad hoc* committee of the Bureau had been set up to observe the elections. It would visit Riga from 1 to 4 October. No report on monitoring of Latvia would be made public before the elections. On the other hand, a report might be discussed by the committee immediately afterwards, with a view, if appropriate, to an Assembly debate in April 1999.

7. THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

co-rapporteurs: Ms Gelderblom-Lankhout and ...

The Chair reminded the meeting of the criteria for appointing co-rapporteurs, according to which the new co-rapporteur should not be Dutch, Bulgarian, Greek or Yugoslav, or a Liberal. In order to simplify the procedure, interested members should contact the Chair, which would put forward candidates fulfilling the criteria so that a decision could be taken at the meeting on Thursday 24 September.

Agreed.

8. CROATIA

co-rapporteurs : MM. Figel and Jaskiernia

The committee authorised the co-rapporteurs to carry out a fact-finding visit to Croatia on 10-13 November 1998.

PART II: Thursday 24 September 1998

Mr Sole Tura, first Vice-Chairman, opened the meeting at 2 pm and welcomed members. He gave them the regards of Mr de Marco, Minister of Foreign Affairs, Deputy Prime Minister of Malta and former Chairman of the Committee, who when taking leave of the members, earlier that day, had invited the Committee to hold a meeting in Malta in 1999.

The Committee took note.

9. TURKEY AS/Mon (1998) 41

co-rapporteurs: MM. Bársony and Schwimmer

Mr Schwimmer apologised on behalf of his co-rapporteur Mr Barsony, who was chairing the Political Affairs Committee and could not attend this meeting.

He presented the information report and referred to the Foreword, in which the co-rapporteurs had explained their understanding of the state-philosophy in Turkey based on the Kemalism doctrine. This philosophy placed Turkey in an exceptional position compared to other member States, but problems arose when high officials in Turkey insisted on the respect of certain principles of Kemalism.

Such problems arose for instance in the field of torture and inhuman or degrading treatment or punishment. Although the co-rapporteurs had noted a growing awareness at governmental level as well as amongst parliamentarians and government officials, for the need to further improve the situation, they had also observed several shortcomings in the practical implementation of the rules on custody. In one case of interrogation, the suspect told the co-rapporteurs that he had not been asked whether he wished the assistance of a lawyer – although the interrogation form indicated that he had renounced such assistance. In this respect, the co-rapporteurs regretted that the Ankara Central Prison authorities, without any preliminary warning, had refused entry to that prison.

Freedom of expression was respected in Turkey, as long as it did not touch two tabous : Kurdish terrorism and Islamic extremism. This restriction seemed to be linked in particular to the Kemalist principles of unitarism and secularism respectively. However, the initiatives taken by the Human Rights Minister and the Human Rights Committee concerning the Penal Code and the Anti-terrorist Act might lead to more freedom of expression – on the condition of course that the related draft legislation would be enacted soon.

Without wishing to enter into the discussion whether the Kurds constituted a national minority, the co-rapporteurs wished to underline that the cultural identity and the cultural rights of any ethnic group should be recognised and, where possible, respected. They did not share the view that such rights should be suspended in respect of the Kurds as long as there was a threat of terrorism ; on the contrary, the co-rapporteurs were of the opinion that respect of the Kurdish cultural identity would contribute to establishing a dialogue.

Mrs Aytaman thanked the co-rapporteurs for their report and in particular their explanations on the historical background. The report should also refer to a phenomenon which was characteristic for the Turkish society: nearly 60% of the population was young and dynamic, which gave rise every day to new situations and other problems which had to be solved, among others, the lack of infrastructures. One of the regions in need of such infrastructures was the south-east, and the government was trying very hard to improve living conditions there – for instance by the construction of a dam - and thus to solve many political problems in that region.

Mrs Aytaman confirmed that the leadership of the HADEP Party would not be arrested. She observed, however, that as long as Turkey was handicapped by the threat of terrorism, any improvement in respect of security measures had to be made with the greatest possible care, to avoid that the country would fall apart.

Many laws were being changed, like the Penal Code, and new laws were made, such as a law on decentralisation and a code of conduct for civil servants which would be presented to Parliament at the opening of its session. Parliamentary opposition, however, was strong. She agreed that implementation of all these provisions was important ; one way to achieve this was special education of police forces. The assistance of the Council of Europe and the European Union in these training programs should be stepped up.

Finally, the refusal of entry into the Ankara Central Prison had come as a surprise for everybody; however, unrest in that prison on the previous day had indeed prevented the prison administration from guaranteeing the co-rapporteurs' security.

Mr Dinçer recalled that in Turkey everybody enjoyed cultural rights and freedom of language; the existence, however, of 24 different mother tongues on the territory, including two totally different Kurdish languages, did not facilitate implementation of that freedom. This problem should be solved by general concensus among the groups concerned and not by terrorism.

Mr. Kiratlioglu said that he could not understand how a person in custody, who had not been informed of his rights, could have signed a declaration in which he renounced the assistance of a lawyer.

Everybody in Turkey had the right to speak his own language; however, a written Kurdish language did not exist.

After the constitutional reform in 1982, three Council of Europe experts had produced a report in which they stated that the Turkish Constitution did not differ from any other European constitution.

Mr Jaskiernia wondered to what extent freedom of expression had been respected in the case of the Mayor of Istanbul, who had been condemned to 10 months inprisonment for reading out a poem. He would also like to know why the Parliamentary Assembly Legal Affairs Committee had been kept waiting in front of the Aksaray Police Security Headquarters in Istanbul, before being told that they would have no access.

Mr Gjellerod observed that the Turkish society was not the only one to be dynamic; this was also the case in Denmark. He wondered whether the contents of the report had surprised his Turkish collegues.

Mrs Gelderblom-Lankhout agreed on the need to establish civilian control over military activity in Turkey, including over the National Security Council. She wondered whether there was still a tendency not to register detainees, and asked whether in a society where girls could not wear a shawl in University, female medical doctors were allowed to treat male patients.

Mr Schwimmer thanked all colleagues, and in particular the Turkish members, for their valuable contributions. He subscribed to the importance of training police forces and welcomed any step towards decentralisation and regionalisation, as well as de-immunitisation of civil servants. The decision not to arrest the HADEP leadership was also positive.

As for the Kurdish language, he said that the co-rapporteurs had been shown a newspaper published in Kurdish and been told that such newspapers and books were freely available in certain shops.

Apparently, the non-admission of the Legal Affairs Committee to the Police Security Headquarters in Aksaray had been based on a misunderstanding. During the visit of the co-rapporteurs to that prison, he had got the impression that the prison administration was not keen on their visit, but had done its utmost to satisfy the rapporteurs, even when they asked to see the narcotics department. In this prison, all detainees which the co-rapporteurs had met had been registered; the co-rapporteurs had no information that in other prisons people were not systematically registered when taken into custody.

The Mayor of Istanbul was being prosecuted, not only for reading out a poem, but for the whole of his speech, which had allegedly been an encouragement of Islamist extremism.

The Committee approved the preliminary draft information report unanimously, invited the Chairman to transmit it to the Turkish parliamentary delegation for comments within three months and agreed to submit it to the Assembly at the January 1999 part-session.

10. ALBANIA

co-rapporteurs: MM. van der Linden and Sole Tura

Doc. 8208

The Chairman expressed his grave concern about the situation in Albania. An urgent debate would be held at the Assembly immediately after the Committee's meeting on the basis of a report presented by the Political Affairs Committee. He was personally in disagreement with the draft recommendation and wished to participate in the debate on behalf of the Socialist Group rather than as spokesman of the Committee.

The Committee took note.

11. THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

co-rapporteurs: Mrs Gelderblom-Lankhout and .....

The Chairman informed the Committee that two members had approached him expressing their interest in being appointed as co-rapporteur: Mr Ramirez Pery (Spain, EPP/DC) and Mr Dumitrescu (Romania, SOC). Since the former rapporteur was Mr Berceanu,

Socialist from Romania, the appointment of Mr Dumitrescu would not disturb the established balance amongst Political Groups and countries.

Upon a proposal by the Chairman, Mr Dumitrescu was appointed co-rapporteur.

12. MOLDOVA

co-rapporteurs: Mr Columberg and Mrs Durrieu

Following a statement by Mr Columberg, the Committee authorised the co-rapporteurs to visit Moldova from 27 to 30 October.

13. OTHER BUSINESS

a) Bulgaria

co-rapporteurs : Mr Atkinson and Mr Gjellerod

Upon a proposal by the Chairman, the Committee agreed to ask the European Commission for Democracy through Law (« Venice Comission ») for an expertise on some Bulgarian draft laws.

b) Ukraine

co-rapporteurs : Mr Kelam and Mrs Severinsen

Upon a proposal by the Chairman, the Committee authorised Mr Kelam to pay a visit to Brussels on 29 September 1998 to have an exchange of views with the Chairperson of the European Parliament Delegation for Ukraine.

14. NEXT MEETING

Upon a proposal by the Chairman, it was agreed that the next meeting would take place in Strasbourg, following the meeting of the Standing Committee, i.e. on 5 November 1998, at 9.30 am.

Mrs Gelderblom-Lankhout presented an invitation by the Dutch parliamentary delegation for the Committee to hold a meeting in The Hague in order to have an exchange of views with Mr Van der Stoel, OSCE High Commissioner on National Minorities. She proposed that this meeting take place on 27 November 1998.

Following a short discussion in which MM Schwimmer and Davis, the Chairman and Mrs Gelderblom-Lankhout took part, the Committee agreed to accept the invitation, subject to the Bureau's authorisation, and authorised Mrs Gelderblom-Lankhout to arrange the meeting on 26 November, since on 27 November the Political Affairs Committee would meet in Budapest.

The meeting rose at 3 pm.

LIST OF PARTICIPANTS
in the first part of the meeting (21 September 1998)

Members present:

Ms	GELDERBLOM-LANKHOUT, Vice-Chair	Netherlands
MM.	GLOTOV, Vice-Chair	Russia
	ATKINSON	United Kingdom
	AVERCHEV	Russia
Ms	AYTAMAN	Turkey
MM.	BÁRSONY	Hungary[1]
	BRUNETTI	Italy
	CHRISTODOULIDES	Cyprus
	DAGYS	Lithuania
Ms	DURRIEU	France
MM.	ELTZ	Croatia
Ms	FLEETWOOD	Sweden
MM.	GJELLEROD	Denmark
	GROSS	Switzerland
	JANSSON	Finland
	JASKIERNIA	Poland
Ms	KAUTTO	Finland
MM.	KELAM	Estonia
	KIRIATLIOĞLU	Turkey
	KUZMICKAS	Lithuania
	van der LINDEN	Netherlands
	LESEIN	France
	MARMAZOV	Ukraine
	MARTELLI	Italy
	MOTA AMARAL	Portugal
	MUEHLEMANN	Switzerland
Ms	POPTODOROVA	Bulgaria
Mr	RAMÍREZ PERY	Spain
Lord	RUSSELL-JOHNSTON	United Kingdom
Ms	SEVERINSEN	Denmark
MM.	SHISLOV	Russia
	SINKA	Latvia
	SMORAWIŃSKI	Poland
	STEOLEA	Romania
Ms	STOYANOVA	Bulgaria
MM.	TAHIRI	The former Yugoslav Republic of Macedonia
	URBAIN	Belgium
	VALKENIERS	Belgium

Also present:

Mr	POLLO	Albania

[1] In his capacity as Chair of the Political Affairs Committee.

LIST OF PARTICIPANTS
in the second part of the meeting (24 September 1998)

Members present:

Mr	SOLE TURA, Vice-Chairman	Spain
Ms	GELDERBLOM-LANKHOUT, Vice-Chairperson	Netherlands
Mr	GLOTOV, Vice-Chairman	Russia
Ms	AYTAMAN	Turkey
MM.	COLUMBERG	Switzerland
	DAGYS	Lithuania
	DAVIS	United Kingdom
	DOMLJAN	Croatia
	DUMITRESCU	Romania
	DINCER	Turkey
Ms	DURRIEU	France
MM.	ELTZ	Croatia
	FICO	Slovakia
	FIGEL	Slovakia
Ms	FLEETWOOD	Sweden
MM.	GJELLEROD	Denmark
	GROSS	Switzerland
	GUSENBAUER	Austria
	HAGARD	Sweden[1]
	JANSSON	Finland
	JASKIERNIA	Poland
Ms	KAUTTO	Finland
MM.	KELAM	Estonia
	KIRATLIOGLU	Turkey
	KUZMICKAS	Lithuania
	LESEIN	France
	MAGNUSSON	Sweden
	MARMAZOV	Ukraine
	MUEHLEMANN	Switzerland
Ms	POPTODOROVA	Bulgaria
Ms	RINGSTAD	Norway
MM.	SCHWIMMER	Austria
	SINKA	Latvia
	STEOLEA	Romania
Ms	STOYANOVA	Bulgaria
MM.	URBAIN	Belgium
	WEYTS	Belgium
Ms	WOHLWEND	Liechtenstein

Also present:

Mr	POLLO	Albania

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

Office of the Clerk of the Assembly

Mr Sorinas, Head of Department

Secretariat of the Committee:

Mr Ausems
Mr Dufour
Ms Chatzivassiliou
Ms Hügel
Ms Fritsch
Ms Wurtz

LIST OF DECISIONS

The Committee on the Honouring of Obligations and Commitments by Member States, meeting on 21 and 24 September 1998 with Ms Gelderblom-Lankhout, Mr Glotov and then Mr Sole Tura in the Chair;

- *Bulgaria (co-rapporteurs: Mr Atkinson, United Kingdom, EDG, and Mr Gjellerod, Denmark, SOC)*: prepared the Assembly debate on the information report to be held on the same day (Doc. 8180);

- *Ukraine (co-rapporteurs: Mr Kelam, Estonia, EPP/CD, and Ms Severinsen, Denmark, LDR)*: heard a report by the rapporteurs on their fact-finding visit to the country (15-18 September 1998) and invited them to prepare a draft report for one of its forthcoming meetings, with a view to an Assembly debate during the January 1999 part-session;

- *Albania (co-rapporteurs: Mr Van der Linden, Netherlands, EPP/CD, and Mr Solé Tura, Spain, SOC)*: took note that Mr Solé Tura would take part in the debate under urgent procedure on recent events in Albania, subject to an Assembly decision to hold such a debate, as spokesman of the Socialist Group ;

- *Slovakia (co-rapporteurs: Mr Leoni, Italy, SOC, and Mr Lesein, France, LDR)*: heard a statement by Mr Lesein on the preparation of election observation in that country (25-26 September 1998);

- *Latvia (co-rapporteurs: Mr Davis, United Kingdom, SOC, and Mr Jansson, Finland, LDR)*: heard a statement by Mr Jansson on the preparation of election observation in that country (3 October 1998);

- *Croatia (co-rapporteurs: Mr Figel, Slovakia, EPP/CD, and Mr Jaskiernia, Poland, SOC)*: took note of the draft programme for the fact-finding visit to be conducted by the rapporteurs from 10 to 13 November 1998;

- *Turkey (co-rapporteurs : Mr Barsony, Hungary, SOC, and Mr Schwimmer, Austria, EPP/CD) :* unanimously approved a draft information report, invited the Chairman to transmit it to the Turkish parliamentary delegation for comments within three months and agreed to submit it to the Assembly at the January 1999 part-session;

- *Moldova (co-rapporteurs : Mr Columberg, Switzerland, EPP/CD, and Mrs Durrieu, France, SOC)* : authorised the rapporteurs to visit Moldova on 27-30 October;

- *former Yugoslav Republic of Macedonia (co-rapporteurs : Mrs Gelderblom-Lankhout, Netherlands,LDR,and ...):*appointed Mr Dumitrescu (Romania, SOC) to replace Mr Berceanu as co-rapporteur;

- *Bulgaria (co-rapporteurs : Mr Atkinson, United Kingdom, EDG, and Mr Gjellerod, Denmark, SOC) :* agreed to ask the European Commission for Democracy through Law (« Venice Comission ») for an expertise on some Bulgarian draft laws;

- *Ukraine (co-rapporteurs : Mr Kelam, Estonia, EPP/CD, and Mrs Severinsen, Denmark, LDR)* : authorised Mr Kelam to pay a visit to Brussels on 29 September 1998 to meet the Chairperson of the European Parliament Delegation for Ukraine ;

- accepted, subject to the Bureau's authorisation[1], an invitation by the Dutch delegation to hold a meeting in The Hague on 26 November 1998 in order to have an exchange of views with Mr Van der Stoel, OSCE High Commissioner on National Minorities ;

- took note of an invitation by Mr de Marco, Foreign Minister and Vice-Prime Minister of Malta and outgoing Chairman of the Committee, to hold a meeting in Malta in 1999;

- decided to hold its next meeting in Strasbourg, following the meeting of the Standing Committee, i.e. on 5 November 1998, at 9.30 am.

[1] The Bureau authorised this meeting on 25 September 1998.