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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 reported using the interpretation and are marked with an asterisk
3. The text of the amendments is available at the document centre and on the Assembly's website. Only oral amendments or oral sub-amendments are reproduced in the report of debates.
4. Speeches in German and Italian are reproduced in full in a separate document.
5. 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 report.

(Mr Arievis, Vice-President of the Assembly, took the Chair at 10.05 a.m.)

The PRESIDENT – The sitting is open.

1. Deal-making in criminal proceedings: the need for minimum standards for trial waiver systems

The PRESIDENT – The next item of business this morning is the debate on the report titled “Deal-making in criminal proceedings: the need for minimum standards for trial waiver systems”, Document 14618, presented by Mr Boriss Cilevičs on behalf of the Committee on Legal Affairs and Human Rights.

I remind members that we must finish this debate and dispose of any amendments by 10.45 a.m.

I call Mr Cilevičs, rapporteur. You have 13 minutes in total, which you may divide between presentation of the report and reply to the debate.

Mr CILEVIČS (*Latvia*) – It is true that this report on deal-making in criminal proceedings might look rather technical at first glance. That is probably why so few colleagues have registered as speakers, but in essence, the report deals with a very real problem concerning a core human right: the right to a fair trial.

The practical importance of this issue has grown very quickly in the past few years, as I noticed in my work as monitoring rapporteur. We have rightly always attached great importance to the fairness of trials in criminal proceedings. Without fair trials, our liberty is at risk. However, we now observe – our experts from Fair Trials International have given us precise statistics – that in a number of our member States, regular criminal trials are gradually being replaced by different forms of trial waiver systems, also as plea bargaining. In the United States, less than 5% of all criminal convictions are based on actual trials; the rest are dispatched by plea bargains. Among our member States too, the percentages of plea bargains reached range from 40% to 60% – and rising.

The practice has often been exported to countries in central and eastern Europe by well-meaning American advisers, but do such exports always make sense? The legal cultures on both sides of the Atlantic are very different. The American criminal justice system has a certain balance of power between the prosecution and the defence, at least when the accused can afford a good lawyer. Acquittals are quite frequent. In continental legal systems, and especially in former communist countries, the prosecution had, and often still has, overwhelming power and acquittals are rather rare. This imbalance may cause potential abuse.

That said, trial waiver systems also have clear potential advantages. They save resources that would be required for systematically holding full trials in open court. They can help in the fight against organised crime by allowing prosecutors to offer deals to potential Crown witnesses on the condition that they disclose the structure of the crime group and testify against their bosses. Plea bargains can also have serious drawbacks and risks. They can be abused, both by the prosecution and by the defence, and the Committee on Legal Affairs and Human Rights was reminded by our invited experts of such risks in June. The prosecution can use the fear, in particular of young or inexperienced offenders not represented by lawyers, of what is called the “trial penalty”. This is a rather telling technical term used in academic discussions on this subject. It alludes to the fact that a higher punishment is threatened after a full trial in case the defendant refuses to plead guilty – in practice, even in cases where the evidence is rather weak. Moreover, open intimidation and blackmail are often reported in several Council of Europe member States. Numerous false guilty pleas, most probably made under different kinds of pressure, have indeed been documented.

There is also a danger of abuse in the opposite direction by white collar criminals whose lawyers negotiate a lenient sentence in return for a guilty plea. However, this guilty plea covers only a small part of the criminal activity that the prosecution could prove if it had the time and resources to proceed with a full investigation and trial. There is a real risk that the secrecy of such deal-making undermines the public’s trust in the judiciary and the fair and non-discriminatory application of the law.

I therefore believe that appropriate safeguards are needed to ensure that member States may enjoy the potential benefits that trial waiver systems do indeed offer, while minimising the threat to human rights. The safeguards that the committee is proposing in the draft resolution include the following: making the involvement of a lawyer obligatory; imposing a minimum level of investigations into the crime underlying the plea agreement and mandating the disclosure of the results of the investigation to the accused; requiring judicial scrutiny of key elements of the plea agreement, including the credibility and voluntary nature of the

underlying confession and the appropriateness of the sanction resulting from the plea agreement – this means that the court has to validate the deal and be satisfied that these key conditions are respected before it can enter into effect; limiting the extent of the trial penalty, or in other words, the difference between the punishment with or without the plea agreement in order to reduce the risk of blackmail; prohibiting the waiver of appeal rights; and monitoring indicators of racial or wealth bias or discrimination, and countering such bias or discrimination swiftly and effectively.

Last but not least, the net-widening effect of trial waiver systems must be taken into account. The efficient dispatching of mass criminality by plea bargaining threatens to criminalise a lot more people than might otherwise be the case. The resulting increase in the prison population is not only costly to the State – which means it offsets some of the savings made thanks to plea bargaining – but imposes a high social cost on the family and society at large, the consensus among criminologists being that prison is the best school of crime. This must be monitored carefully in order to avoid over-criminalisation.

Nevertheless, when all these safeguards are respected, plea bargaining can be a useful tool in allowing the justice system to make the best of its always limited resources. That said, it must not become an excuse to withhold from the judiciary the funding it needs to uphold the rule of law for the benefit of all citizens.

I thank you, dear colleagues, for your attention and look forward to our discussion.

The PRESIDENT – Thank you, Mr Cilevičs. You have five minutes and 40 seconds remaining for your concluding remarks. I remind colleagues that there is a four-minute limit on speeches.

I call Mr Logvynskyi.

Mr LOGVYNSKYI – (*Ukraine, Spokesperson for the Group of the European People's Party*) – I thank Mr Boriss Cilevičs for this excellent report, which will go down in history as one of the foundations of the protection of human rights and will definitely save many lives.

We welcome European Union countries, such as France, Belgium and others, that already use deals to facilitate the work of law enforcement and other parties and to reduce both the cost to the public of legal proceedings and inconvenience to participants in criminal proceedings. At the same time, the use of this mechanism carries serious risks. Under pressure and blackmail, law enforcement agencies, often without lawyers, can force people to testify against themselves or slander other people in exchange for a promise to relax prosecution. Especially in young democracies, such as Ukraine and occupied Crimea, methods of blackmail, searches, harassment and pressure on family members are well known to human rights defenders. Such unacceptable pressure, which is often applied to lawyers, human rights defenders and other advocates as well, violates the principle of the rule of law.

Such offences have been documented in many reports and conclusions by international and national human rights organisations. According to the principle of historical Roman law, it is better that a thousand guilty people go unpunished than that one innocent person be judged guilty. The report calls on member States of the Council of Europe to ensure that such violations do not occur and requires them, when such actions are discovered or suspected, to ensure that the evidence be immediately recognised as inadmissible and the violators brought to justice.

Once again, I thank Mr Boriss Cilevičs for his wonderful and historic report, and all members for their attention.

Ms BESELIA (*Georgia, Spokesperson for the Socialists, Democrats and Greens Group*) – I thank Mr Boriss Cilevičs for this comprehensive report.

The deal-making process is one of the most problematic issues in the criminal law. As a lawyer, I have experience of this issue, and I agree with the rapporteur that it has positive and negative sides. I agree entirely with the arguments in the report. The Parliamentary Assembly recalls the obligation of member States to ensure fair trials in criminal proceedings. Between 2005 and 2012, the practice of plea bargaining in Georgia was widely criticised, but we now have good standards in our criminal procedural. That is very important. Access to a lawyer is important even when the defendant has the benefit of a full trial. Only a lawyer can explain the full consequences of a deal that entails criminal conviction.

The involvement of a lawyer has already been made mandatory as a condition of the validity of a plea bargain in Georgia, Estonia, France, Luxembourg and Switzerland. They have good standards. It is

important to have strong guarantees in the system, including mandatory protection during the plea bargaining. In addition, the court should have the right not to approve an agreement if it seems doubtful and the evidence is not convincing, and I agree that there should be no difference between the sanction resulting from a full trial and that offered as part of a plea bargain. The right to appeal should also be guaranteed and in general the guarantees given in Article 6 of the Convention be protected. It is important that these standards be protected in all Council of Europe member States.

As I said, I support the report and its recommendations and thank the rapporteur.

Mr HOWELL (*United Kingdom, Spokesperson for the European Conservatives Group*) – When I first looked at this report, I was of the opinion that it would be of interest only to lawyers, but the more I read it the more convinced I became that it had a much wider application. It looks at the practice of plea bargaining or deal making. Although Europe is divided between jurisdictions based on the common law, such as the United Kingdom, and those based on civil law, there are some common rules, which can be set out, that apply to plea bargaining under both systems. I am grateful to the rapporteur for doing precisely that and setting them out in the report.

There are of course distinct advantages to plea bargaining: it reduces waiting times, shortens pre-trial detention, cuts costs and prevents victims from having to relive their ordeals in a public environment – I would like to stress that last point. As the example of rape trials shows, however, these benefits need to be tempered. In rape trials, it is good that a victim need not relive the rape. It might have been a particularly distressing rape, and reliving it would be not only counterproductive but – much more than that – damaging. It is also good for the courts not to have to go through the effort of establishing consent, with the accused agreeing to a guilty plea on a lesser charge such as sexual assault. Establishing whether there was consent in a rape trial is a particularly difficult thing to do in court. However, that needs to be set against the fact that, although some sort of sentence may be secured, it may not be an appropriate sentence, and we may well find that a potential rapist is released back into the community at an earlier date than expected.

In the case of fraud, it is clear that plea bargaining is used and acknowledged in the United Kingdom, but that needs to be seen in the context of a Serious Fraud Office that is the subject of serious questions. The report makes a number of suggestions for changes, including mandatory access to lawyers and more judicial involvement.

Those two recommendations are by far the most important ones in this report, even for jurisdictions such as the United Kingdom that are, if one might describe them as such, old and established. The law is changing fast, so it is not only the countries of central and eastern Europe that this report should concentrate on. There is a considerable amount that more mature legal systems should also have to take into account.

Mr WASERMAN (*France, Spokesperson for the Alliance of Liberals and Democrats for Europe*)* – I pay tribute on behalf of ALDE to the quality of our colleague's report, which reasserts the fundamental right of each and every person to benefit from a fair trial in our member States. It also highlights an increasing trend of people having recourse to the trial waiver system, and raises the question of the protection of human rights and the rule of law. The question is whether we can indeed protect the right to a fair trial if there is no trial at all. This report is a major breakthrough, because it provides concrete and new solutions. This mechanism may have a positive outcome in terms of tax, but it requires greater vigilance so that the right of the accused, and rights in general, may be respected in all circumstances.

We must bear in mind that, unfortunately, very few international standards regulate this practice, and they come mostly from America. We know that there are sizeable differences between the criminal justice systems in Europe and the United States, because American democracy has created checks and balances, and the risks mentioned in this report for Europe are real. That is why it is incumbent on us not to sacrifice the quality of trial for immediate solutions. We need to protect the fundamental rights of those who are most vulnerable in a trial, and we must do our utmost to ensure that the confidence of our citizens is not eroded. We must provide guarantees.

The ALDE group welcomes the recommendations proposed by colleagues, to share good practice in some member States and to ensure rapid implementation, such as having recourse to a lawyer and indicators based on race and wealth. Here again, the major contribution this report makes is in the quality of its pragmatic and innovative proposals. Our group welcomes those proposals and endorses the report's being submitted to the Committee of Ministers, so that the Committee of Ministers can make proposals to member States as rapidly as possible.

Ms BRYNJÓLFSDÓTTIR (*Iceland, Spokesperson for the Group of the Unified European Left*) – I congratulate and thank the rapporteur, Mr Čilevičs, for this timely and necessary report. I must admit that it was an eye-opener for me; I did not know how widespread the trial waiver system had become, as shown on page 12, where the magnitude of the trend is mapped. That mapping is very necessary.

As stated in the report, the trial waiver system has clear potential advantages; it saves resources, time and cost and prevents the prolonging of judicial procedures. The trial waiver system also has serious drawbacks, however, and this report tries to map those drawbacks and prevent abuse of the system. That is very welcome to me and to my political group. As is stated so well in this report, we must have a clear framework for this type of trial system, so that it will not be abused and we can defend our judicial system while also using methods that are good for our citizens. We must have the rights of citizens in mind. We must defend our judicial system and prevent these kinds of trials from undermining the normal judicial system.

I welcome the suggestions tabled in the report and fully support them. As I said to begin with, this is a timely and necessary report to map this trend and see the advantages and the risks that we face, so that we can ameliorate the judicial system for the better good of our citizens. I thank the rapporteur again for the report.

The PRESIDENT – The rapporteur will reply at the end of the debate, as usual. Ms Kasimati is not here, so I call Ms Harder.

Ms HARDER (*Canada, Observer*) – Thank you for the opportunity to participate in this debate and to offer a reflection from the Canadian experience. I first congratulate the rapporteur on having produced an excellent report, which highlights the specific challenges of the trial waiver system and how we might proceed.

As you know, Canada's criminal justice system has its roots in the common law adversarial tradition. Most of the criminal offences are contained in our country's criminal code, and the authority to prosecute those who offend is shared between the federal Government and our provinces. As a central pillar of our criminal justice system, Canada has a strong and independent judiciary branch. Our system can also count on a strong defence Bar, and low-income Canadians have access to legal aid. Accused persons in Canada benefit from strong procedural safeguards, which protect their right to make full answer and defence.

Section 11 of the Canadian Charter of Rights and Freedoms provides several constitutional protections to all Canadians, including the right to be presumed innocent until proven guilty and the right to understand the offence with which one has been charged. An accused person also has the right to full disclosure of the prosecution's evidence. Plea bargaining, which we call resolution discussions, has long been recognised as an integral part of our system and is a routine element in the exercise of prosecutorial discretion. In most jurisdictions in Canada, resolution discussions may take place in the presence of a judge during judicial pre-trials or pre-trial conferences. Generally, a joint submission should not be rejected by the judge unless it would bring the administration of justice into disrepute or is otherwise contrary to the public interest. That is common practice in our country.

Similarly to other countries, Canada's criminal justice system faces several challenges. In particular, since the ruling by the Supreme Court of Canada in *R v. Jordan* in 2016, there has been added pressure to resolve criminal prosecutions in a very timely fashion. In interpreting the right to be tried within a reasonable time guaranteed by section 11 of the Canadian Charter of Rights and Freedoms, the court imposed ceilings beyond which court delays are presumed to be unreasonable, in the absence of exceptional circumstances. In other words, an individual deserves to have a fair trial within a reasonable period of time. If that period of time is not met, the trial may be cast out. In such cases, proceedings are terminated by the courts.

Several jurisdictions in Canada have since announced or implemented reforms and committed additional resources in order to address the issue of delay in prosecutions. However, that is not true for all regions. Canada must do more to uphold the integrity of its justice system by appointing judges in a more timely fashion than currently. That will ensure that vacancies are filled and court hearings can proceed in a timely manner.

It is worth reminding ourselves that independence, transparency and accountability should be the cornerstone considerations when making use of trial waiver systems. Those points are adequately outlined in the report and I encourage all here to read it through and to understand those values. They are important values in guaranteeing a fair trial and they are important to society's interest in seeing that justice is carried out fully, and is properly implemented, which are all things that we strive to do.

The PRESIDENT – Thank you, Ms Harder. That concludes the list of speakers. We are ahead in our schedule so I invite any delegate in the Chamber who may wish to take part in the debate spontaneously to do so.

There are no takers, and so the debate is now closed. I call Mr Cilevičs to reply. You have a little less than six minutes to conclude the debate.

Mr CILEVIČS (*Latvia*) – I do not intend to use all of that time, as we have what is unique unanimity. I am very grateful to colleagues for their support in this shared task. I am particularly grateful to Mr Howell, who pointed to a very important dimension of the potential advantages and disadvantages of deal making in criminal proceedings with regard to particularly sensitive cases such as rape trials. We should elaborate further on how we can use this opportunity to reduce the repeated suffering of victims.

The Council of Europe has two major functions. The first is the setting of standards in the field of democracy and human rights and the second is monitoring the implementation of those standards. Latterly, we have mainly concentrated on the monitoring side, because it seemed that all standards in the field of human rights had been settled already, but that is not the case. In dealing with this issue, we see that there are still areas where there is a lot to do. Deal making in criminal proceedings is relatively widespread in the Council of Europe's territory, but there are absolutely no international standards in the field. Offering the very first standards in that field is exactly the kind of task the Council of Europe should undertake.

I am grateful for the support of colleagues. I sincerely believe that the Committee of Ministers will agree with our proposal and will proceed quickly on the standards.

The PRESIDENT – We are all very brief today. I call the Chairperson of the Committee on Legal Affairs and Human Rights.

Ms ÆVARSDÓTTIR (*Iceland*) – Although the report may seem technical, it goes to the core of the Council of Europe's values, namely our right to a fair trial. It also goes to the core of our activities, as it identifies and reacts to developments in human rights protections, ensuring that they are safeguarded and guiding our member States when they are not.

The massive increase in the use of trial waiver systems has crept up on us and the report illustrates the danger that that trend poses to our most fundamental rights. It also illustrates some clashes and issues that arise when we mix up common law and civil law. In particular, it identifies the danger of artificial imports of practices from other legal systems, however benign the motivation.

The report comes at a timely point that allows us to react. It gives us some idea of how to better protect our citizens' rights in using this practice, which has managed to go almost unchecked thus far. It is vital that we take the report home to our member States and ensure that the safeguards are implemented. If we do not ensure the most basic rights such as the right to a fair trial, especially when it comes to criminal proceedings, we face the danger of discrimination based on race or economic status and we erode the very justice that we seek to protect in this Chamber and as governments and legislators back home.

I thank the rapporteur for the great work on the report. The committee stands fully behind the report, which I look forward to adopting today.

The PRESIDENT – Thank you, Ms Ævarsdóttir.

The Committee on Legal Affairs and Human Rights has presented a draft resolution to which one amendment has been tabled. It has also presented a draft recommendation, to which no amendments have been tabled.

I understand that the Chairperson of the Committee on Legal Affairs and Human Rights wishes to propose to the Assembly that Amendment 1 to the draft resolution, which was unanimously approved by the committee, should be declared as agreed by the Assembly. Is that so, Ms Ævarsdóttir?

Ms ÆVARSDÓTTIR (*Iceland*) – Yes.

The PRESIDENT – Does anyone object? That is not the case.

Amendment 1 is adopted.

We will now proceed to vote on the draft resolution contained in Document 14618, as amended.

The vote is open.

The draft resolution in Document 14618, as amended, is adopted, with 37 votes for, 0 against and 3 abstentions.

I congratulate the committee and the rapporteur. Thank you for your good work.

We will now proceed to vote on the draft recommendation contained in Document 14618.

The vote is open.

The draft recommendation in Document 14618 is adopted, with 40 votes for, 0 against and 3 abstentions.

(Mr Jonas Gunnarsson, Vice-President of the Assembly, took the Chair in place of Mr Ariev.)

2. The crash of Polish Air Force Tu-154M transporting the Polish State delegation, on 10 April 2010, on the Russian Federation's territory

The PRESIDENT – The next item of business this morning is the debate on the report by Mr Omtzigt, rapporteur, titled “The crash of Polish Air Force Tu-154M transporting the Polish State delegation, on 10 April 2010 on the Russian Federation's territory”, Document 14607, presented by Ms Ævarsdóttir on behalf of the Committee on Legal Affairs and Human Rights.

I remind members that we must finish this debate and dispose of any amendments by 12.05 p.m.

I call Ms Ævarsdóttir. You have 13 minutes in total, which you may divide between presentation of the report and response to the debate.

Ms ÆVARSDÓTTIR (*Iceland*) – Mr Omtzigt has asked me to apologise for his absence today and to present the report on his behalf, as chair of the committee.

Many members will remember the tragic day in April 2010 when a Polish Air Force Tupolev with 96 people on board, including Polish President Lech Kaczyński and many other senior representatives of the Republic of Poland, crashed at the Russian military airport in Smolensk. The Polish delegation was on its way to a ceremony marking the 70th anniversary of the Katyń massacre. We can hardly imagine the dramatic impact that this catastrophe – which, I repeat, wiped out numerous representatives of the Polish State – had on Poland in 2010 and continues to have today.

Soon after the crash, the Polish Government of the day agreed with its Russian counterpart that the air safety investigation into the cause of the crash would be carried out by the Russian Interstate Aviation Committee, with the participation of Polish experts. Both States agreed that the main technical investigation be conducted according to the international standards and recommended practices specified in Appendix 13 of the Chicago Convention. These usually apply to civil aviation but they can also be applied to State aircraft, such as the Polish Air Force Tupolev in question, by common agreement.

The report of the investigation team of the Russian Interstate Aviation Committee was published in January 2011. Six months later, in July 2011, the Polish Committee for Investigation of National Aviation Accidents issued its own report. The two reports agree on the basic nature of the tragedy as an accident, but they diverge somewhat on who is to blame. The Russian report places all responsibility on the aircraft's crew members. By contrast, the Polish investigation found that Russian air traffic control also played a part in the accident by passing incorrect information to the crew regarding the aircraft's position, and that deficiencies at Smolensk airport contributed to the crash. On 11 April 2018, the Committee for Re-investigation of the Crash of Tu-154M in Smolensk, in the Russian Federation, appointed by the present Polish Government, published a new, preliminary report, in which it concluded that the aircraft was “destroyed in the air as a result of several explosions”.

Now, more than eight years after the accident, the Russian Federation still possesses the plane wreckage, the black boxes with original flight data recordings, and other evidentiary material. Poland has strongly insisted for years that the wreckage and all original materials be returned.

In his report, Mr Omtzigt does not deal with the question of the causes of the crash or which of the Russian and Polish investigation reports is closer to the truth. He had to stick to the limited mandate set by the motion for the report, and he and the committee did not have at our disposal either the expertise or the means to carry out – or second guess – a credible evaluation of the existing investigation reports.

In the light of the experts' clear statements during their hearing before our committee, however, we feel comfortable in making one assertion, namely that, since the technical air safety investigation was completed in January 2011, the Russian Federation has been legally required to return the wreckage and other evidentiary material. The legal arguments are summed up in detail in the explanatory report. In the committee's view, the continuing refusal of the Russian authorities to return the wreckage and other evidence constitute a clear abuse of rights. Sadly, it has also fuelled speculation on the Polish side that the Russian Federation has something to hide.

The draft resolution therefore proposes that the Assembly calls on the Russian Federation to hand over the wreckage of Polish Air Force Tu-154 to the competent Polish authorities without any further delay, in close co-operation with Polish experts and in a manner that avoids any further deterioration of potential evidence. In the meantime, the Russian Federation should refrain from carrying out at the site of the crash any more activities that could be viewed as desecrating a site that has a powerful emotional significance for many Poles.

In the concluding paragraph of the draft resolution, the committee also invites the Assembly to solemnly recall the purpose of the fateful flight, namely to transport the most senior representatives of the Polish State to a memorial ceremony at Katyń, the site of the massacre of thousands of Polish patriots by Stalin's secret police in spring 1940. The Soviet Union finally recognised the facts in 1990. The process of reconciliation between Poles and Russians should not be put at risk by any abusive or provocative behaviour relating to the tragic events in Smolensk.

The PRESIDENT – Thank you, Ms Ævarsdóttir. You have just under eight minutes remaining.

I remind members that there is a four-minute speech limit in this debate. I call first Mr Zingeris.

Mr ZINGERIS (*Lithuania, Spokesperson for the Group of the European People's Party*) – On a point of order, Mr President. Given that we are discussing probably the biggest tragedy for Poland and the whole of eastern Europe after the Second World War, and given that among the 96 people on board were friends of the Parliamentary Assembly of the Council of Europe, including members of parliament from all parties, as well as President Kaczyński and his wife Maria, may I request that, as a gesture, we hold a minute's silence during my point of order – this is not my speech – unless it violates the rules?

The PRESIDENT – Thank you, Mr Zingeris, but that is not a point of order. There is nothing in our rules regarding a minute's silence. I suggest that we continue and that those who wish to take part in such a ceremony do so after the debate.

I now call Mr Bushati.

Mr BUSHATI (*Albania, Spokesperson for the Socialists, Democrats and Greens Group*) – On behalf of the Socialists, Democrats and Greens Group, I congratulate the rapporteur Mr Omtzigt on the report on the crash of the Polish Air Force Tupolev Tu-154M on 10 April 2010. The plane was transporting the Polish delegation on Russian Federation territory. More than eight years ago, it crashed when it attempted to land at the military airfield in Smolensk, wiping out 96 lives, including that of Polish President Lech Kaczyński. We should not forget that important tragic event.

More than eight years after the accident, the Russian Federation is still maintaining possession of the plane wreckage, the black boxes with the original flight data recordings and other evidential material. Poland and the Russian Federation agreed that the main technical investigation into the crash should be conducted according to the international standards and recommended practices specified in Annex 13 of the Chicago Convention. Under Annex 13, the Russian Federation should have returned the wreckage to Poland once the technical air safety investigation was completed.

The report is well balanced. It is critical that we maintain a certain attitude towards recommendations, law and legislation where everything proceeds as normal and as it should. Both States agree that it was a tragedy – a natural disaster – but the Russian Federation should return all the wreckage to the Polish side. We should support the draft resolution. I invite my colleagues to adopt it.

Mr HOWELL (*United Kingdom, Spokesperson for European Conservatives Group*) – The report sets out a clear description of the crash of the Tupolev Tu-154M at Smolensk, which killed the Polish President and numerous others in April 2010. First, I pay tribute to my colleague Robert Neill who did so much on this issue while he was a member of this Assembly. This is a murky business, and it continues to be murky because of the Russian authorities' attitude to returning the plane to Poland.

I completely back the calls in this report to return the remains of the airplane to Poland and for Poles and Russians to co-operate fully on the future report that must be produced. I also agree with the other recommendations set out in the report. I recognise that both sides may believe that current law cases are still operable in relation to the crash. However, when I have discussed the crash, it is clear that the main reason the Russians have for not giving the wreckage back to Poland is that doing so may well fuel Polish conspiracy theories. That is such an inadequate response to a serious and tragic incident that it beggars belief. I cannot believe that the Russian authorities are using a spurious fear of suspicion to not do the right thing.

Failing to take action and continuing to retain the plane only creates more spurious conspiracy theories, but it is not the only anomaly in the Russian legal system. I recall an incident where a young American employee was murdered in Moscow, but the Russians wanted to allege that it was a heart attack. They therefore released the body to the grieving parents for burial minus the heart and surrounding muscles. That incident and this incident show the real attitude of the Russian legal system.

The continued lack of co-operation between the Russian authorities and the Council of Europe is set out in the report. I find it shameful that the Russians should use the difficulties they have with the Council as a pretence for not bringing this issue to a full and successful conclusion. The report mentions how things have moved on since the time of the crash, including in terms of the Katyn massacre. Those on the plane were going to visit a commemoration of that massacre. The truth of that massacre has now been admitted. It is a great shame that the Russians cannot seal that rapprochement with the Poles through a spirit of greater openness, which is what I thought Glasnost was all about, rather than having these suspicions about motives.

The PRESIDENT – Thank you, Mr Howell. I understand that Mr Zingeris wants to make a few more remarks on behalf of the Group of the European People's Party. Since there is plenty of time, you have the floor.

Mr ZINGERIS (*Lithuania, Spokesperson for the Group of the European People's Party*) – Thank you, colleagues, for your consideration of this incredible tragedy. Part of the delegation visited Vilnius a few days before they were killed, and I remember their faces. I thank Peter Omtzigt for his report on this huge tragedy, where the elite of Poland and Warsaw were killed. People from all parties and members of the delegation were killed in the terrible crash.

On behalf of the Group of the European People's Party, I would like to say that the fact that the airplane's wreckage has not yet been returned after eight years shows the Kremlin's attitude and the level of democracy in the country. After all the debates where Russian democrats have encouraged the leaders in the Kremlin to give back the wreckage and evidence, the views of the leaders have become more set in stone and all evidence has disappeared after the reconstruction of Smolensk airport.

There is also a question about the signals during the crash. The airport was open and it never officially stated that it was closed. That is the other fact that leads us to have some question marks about the behaviour of the team who were working in Smolensk airport at the time.

If we would like to have normal relations between the Russian Federation and the rest of Europe, we need co-operation. Up to now, at no point have we made the Russian Federation fulfil their obligations to the Council of Europe. If the Russian Federation would like to be here, they should take their obligations to the Council of Europe seriously, and that includes this case.

My final point is about equality. There has been no equality between the Russian Federation and Poland with the crash investigation. We are talking about the Russian Federation's international obligations, and we are asking them to meet them.

I thank Peter Omtzigt and the committee for supporting the draft resolution. We should ask the Russian Federation to show at least some openness towards a dialogue between Europe and the Russian Federation. It is a matter not only for Poland, but for Europe in general.

Mr van de VEN (*Netherlands, Spokesperson for the Alliance of Liberals and Democrats for Europe*) – The report argues in essence for the speedy return to Poland of the wreckage of Polish Air Force Tupolev Tu-154M, as well as the original flight data recordings. The purpose of the draft resolution and the explanatory memorandum by Mr Peter Omtzigt is highly commendable, and the goal of the return of the wreckage is clearly supported by the Alliance of Liberals and Democrats for Europe.

It is clear to all of us that the next of kin of the 96 persons killed in the crash in Smolensk Severny aerodrome have a right – a human right – to come to peace in any way that they can with that terrible event on Saturday 10 April 2010. However, the references in the report to, and consoling words for, the bereaved families are rather scant. I missed the reference to the grief of husbands, wives, children, fathers, mothers, brothers and sisters who were left behind. I asked myself whether the draft resolution was of a human rights nature. I want to elaborate on that.

Since 15 December 2017, we all have been working hard and diligently to redefine our core business in the Ad Hoc Committee on the role and mission of our Parliamentary Assembly. At the second meeting of that committee, it was agreed that discussions would focus on issues related to the impact and political relevance of the Assembly, and to its nature and identity. The emphasis was particularly on the Assembly's role as a human rights and democracy watchdog. The Ad Hoc Committee recommended that the nature and identity of the Assembly should be taken into consideration as the "main challenges for the future" of the Parliamentary Assembly of the Council of Europe. In the Ad Hoc Committee, there seemed to be consensus on streamlining our work, as redefining and prioritising our core business are some of the main challenges that face our Assembly.

I now turn to the report and resolution on the return of the wreckage of Tupolev Tu-154M to Poland. I have the deepest respect for the emotions of the bereaved; the next of kin go home with their personal grief for their loved ones buried in their hearts. The return of Tupolev Tu-154M and the finalising of the criminal investigations are imperative, but it would take an improvement in the bilateral relationship between the Russian Federation and Poland to bring this tragic episode in Polish history to an end.

Dear colleagues, ALDE has no advice on how to cast your votes on the resolution and the report by Mr Pieter Omtzigt. In our view, the vote should be a personal decision made in accordance with your conscience, having due regard to the grief of family left behind.

Mr OVERBEEK (*Netherlands, Spokesperson for the Group of the Unified European Left*) – The crash in 2010 of the Polish Government aircraft carrying dozens of high-ranking officials, including then President Lech Kaczyński, shocked the world. It is extremely unfortunate that the follow-up to the disaster has become a subject of escalating confrontation between two member States of our Organisation. It is particularly deplorable that the return of the wreckage to Poland has still not taken place, even after more than eight years. Our group fully supports the main intention of the resolution, which is the speedy return of the wreckage of Tupolev Tu-154M to Poland.

In broad outline, we therefore congratulate the rapporteur on the report. We highly praise him for the thorough documentation and greatly appreciate his choice to abstain from any speculation on the causes and circumstances of the crash. As parliamentarians, we have neither the expertise nor the mandate to involve ourselves in such a technical matter. We also welcome his choice to not become involved in the discussions regarding the motives of the Russian and Polish Governments at the time to decide jointly on a juridical regime to conduct the investigation, namely Annex 13 to the Chicago Convention. Those choices are both expedient and wise. They have enabled him to draft a fairly balanced report on what happened, and it rightly focuses on what needs to happen now.

In that context, the draft resolution focuses on the need for the speedy return of the plane's wreckage, including the cockpit voice recorder, the flight data recorder and any other material evidence. Annex 13 calls for such return as soon as the material is no longer required for the investigation into the causes of the crash, which is different from any criminal investigation following the completion of the technical investigation. We support that objective, but what type of resolution would best contribute to its realisation? We believe that the resolution is not yet quite balanced. We are confronted with a politicised situation in which both sides have recently engaged in highly charged verbal confrontation. In such a situation, it is counterproductive to lay the full burden on one side in the conflict. Such declaratory politics is not the way to achieve progress. Instead, we argue that the Assembly should call for a diplomatic initiative aimed at de-escalation rather than declaratory escalation. In that spirit, we have submitted two amendments to the resolution.

My wife is a psychologist and family mediator. What sometimes works to de-escalate extreme family disputes may also work in de-escalation efforts for inter-State disputes. We therefore call on colleagues to support our amendments so that the Polish and Russian Governments can sit down and work out a practical solution that honours legal obligations and respects the emotional sensitivities involved, while preventing further deterioration of relations between them. I would be happy to help facilitate such efforts in The Hague, the city of international diplomacy. It is important that in this Chamber the voice of reason prevails over continued escalation.

The PRESIDENT – Ms Ævarsdóttir will reply at the end of the debate, but do you wish to respond at this stage?

Ms ÆVARSDÓTTIR (*Iceland*) – No.

The PRESIDENT – Thank you, Ms Ævarsdóttir. I call Mr Arieu.

Mr ARIEV (*Ukraine*) – What do we expect from the Russian Federation? It is also part of the Chicago Convention. Let me remind you of what the Russian Federation has done, and not just in its rejection of the rules of the Council of Europe and of its obligation to make its financial contribution to this Organisation. The Budapest Memorandum guaranteed that Ukraine would be independent and that its territorial integrity would not be broken. What happened after 2014? It is not necessary to explain.

The Polish elite died in a catastrophe for the Polish State and nation, but the wreck of the plane still remains in the Russian Federation. Why? Who can give me the reason? What is it hiding from international society about what happened on that black day? Even terrorists from the so-called Donetsk Republic finally agreed to transfer the wreck of MH17 to the international investigation body, so that it could make conclusions. The Russian Federation is worse than those terrorists. What is going on? We should be straight in our reflections. What action can we expect under the Chicago Convention after seven years? What action can we expect from the proposed amendments? It is useless. The Russian Federation must act.

This Assembly should trigger debates in all international organisations and in all communities – wherever we can. I fully support Polish colleagues who are striving to find the truth about what happened in the Smolensk tragedy. This waiting is a second Smolensk tragedy for the Polish people. We have an obligation to support this very good report and resolution without amendment.

Mr TARCZYŃSKI (*Poland*) – I thank the rapporteur for this important report, which is not only about the Russian Federation; it is about our dignity and whether we are proud enough, whether we are brave or whether we want to kneel before the Russian Federation. This is about our future. It is not only about those who lost their lives, although that is the most important aspect. President Kaczyński and the first lady were among the 96 who lost their lives on Russian territory, so I urge the Assembly to be brave and adopt the report. Do not kneel before the Russian Federation.

How long should we wait? Eight years? Eighty years? We have been asking for peace and co-operation for ages without success. That is why we, as the proud Polish nation, support the report. We thank the rapporteur.

This might happen to you. It is not about Poland, Ukraine or Georgia; it is about all 46 member States. Think about the future. Think about your children and grandchildren. It is time to be brave.

Mr MULARCZYK (*Poland*) – I thank Pieter Omtzigt for preparing the report. As a member of the Polish delegation, I welcome the report's conclusions, which, based on international law, analysis and expert opinions, challenge the Russian Federation to release the Polish Air Force Tu-154 wreckage, black boxes and all related items to Poland.

The report was proposed by a group of parliamentarians on 26 January 2015 to explain the causes of the crash in Smolensk, in the Russian Federation. This crash is an extremely important issue for all Poles. The Polish President, Lech Kaczyński, and his wife were among the 96 people who died in this tragedy. The crash cost the lives of the highest representatives of the government, army and parliament. The Polish elite died in Smolensk. I knew more than half the dead, including many close friends.

The Polish delegation, led by President Lech Kaczyński, went to Katyń in the Russian Federation to commemorate 22 000 Polish army officers, police officers and border guards who, on Stalin's orders, were murdered in a forest with a shot to the back of the head by the Soviet secret police. To explain the causes of

the disaster, it is necessary for the Polish State to regain possession of the wreckage of the aircraft, black boxes and other evidence.

Unfortunately, despite the passage of eight years since the catastrophe, the Russian Federation still refuses to return the wreckage to Poland, claiming that it is necessary for further investigation. It is obvious that such an attitude is unjustified in light of the Chicago Convention. It therefore constitutes a provocation towards Poland and the democratic world, and it is a violation of the norms of international law.

It was therefore necessary to ask the Council of Europe to support our activities. Regrettably, however, the proceedings on this important issue lasted more than three years. Pieter Omtzigt identified the cause of the delays; namely, two changes of rapporteur and the lack of Russian co-operation. That is why I appeal to the Parliamentary Assembly of the Council of Europe to adopt the draft resolution without amendment and to oblige the Russian Federation to return the wreckage of Tu-154 and the black boxes to Poland.

Mr GATTOLIN (*France*)* – Pieter Omtzigt's report took four years to compile. The report is both impassioned and technical, and it addresses the history of a dramatic event for all the peoples of Europe. It also addresses the stringent application of aviation law. What really happened to the plane that crashed on 10 April 2010, carrying Poland's highest-ranking officials, including the president of the republic, to commemorate the 70th anniversary of the NKVD's massacre in Katyń? What were the circumstances? What responsibility should be borne by the Russian and Polish authorities respectively? We will never know for sure. In any case, that is not the purpose of the report.

The Smolensk disaster almost eight years ago is still an open wound for the people of Poland, which is why it is crucial that we do not add doubt and suspicion to this terrible event. As our rapporteur rightly said, it is important that we ensure that this tragedy is not exploited and that we bring about seamless co-operation between the Polish and Russian authorities. The Smolensk crash was a tragic accident – the Poles and the Russians agree to that extent – but there are still ongoing quarrels about apportioning blame between the Polish pilots and Russian air traffic control.

The Russians have applied the Chicago convention only in part, and they give the impression that they have something to hide. That impression is compounded by their refusal to co-operate, which is why there has been a spiral of mistrust between the Russians and the Poles.

The resolution is both timely and appropriate. The Russians have been illicitly holding on to the wreckage of the plane for the past seven years, and they must give it back. I would add that the return of the wreckage to the Polish authorities would be much more than a simple application of international law to definitely close the investigation. There is a legitimate demand from the Polish people, and we still have some way to go on completing the reconciliation between the two countries, which started in 1990 when the Russian Federation, at long last, recognised its responsibility for the Katyń massacre. That is why we have to look at the legal rules, alongside our other legitimate aspirations. The wreckage should be returned to Poland immediately.

Mr OBREMSKI (*Poland*) – For me, the Smolensk crash is full of emotion. I lost three of my friends from the 1980s, from the time when I fought for the Solidarity movement against martial law in Poland. Even now I get in touch with their families – husbands, wives, mothers.

We are emotional because, from the beginning, we believed in Russian good will but, step by step, we lost trust because of the strange result of the investigation and the lack of co-operation with the Polish side, and because of the washing and progressive destruction of the plane wreck. When the Polish side decided to exhume bodies and open the closed iron Russian coffins, we found that many of the victims' remains were in the wrong coffins. The number of hands and arms in the coffins were often greater than two. Polish pathologists found garbage inside the bodies, including the bodies of Polish generals.

Amendment 2 would mean forcing us into mediation with the Russians. I cannot imagine, for example, someone who has stolen a car entering mediation with the owner eight years later. Mediation means looking for compromise, but what kind of compromise? Does half the plane wreck come back to Poland? Do we get only one wing? Perhaps it means the full acceptance of the Russian report. It could mean political change, for example a change in our attitude towards the occupation of the Crimea. Mr Omtzigt's report is good, but the amendment is not fair. We expect the solidarity of colleagues. We do not want to be naïve or to believe in the good will of the Russians on this subject.

Mr LEŚNIAK (*Poland*)* – It is an honour to take the floor in this august Parliamentary Assembly of the Council of Europe in a debate on this unprecedented case. On 10 April 2010, the whole of Poland was in shock. It was a terrible tragedy for the nation. More than eight years on from the accident, the legal investigations conducted in the two countries involved are ongoing. The Russian Federation is still holding the wreck of the plane, the black boxes and the original recordings of flight data, and other evidence such as the mobile phones of the president and the chief of staff.

Poland has insisted for years that the wreckage and all the original evidence should be sent back to Poland, unfortunately to no avail. I take the opportunity today to tell our Russian partners to understand that the return of the wreckage of the presidential Tu-154 plane must happen. It is time to turn the page and close this painful chapter, especially out of respect for the memory of the victims and their families. The wreckage is not just irrefutable evidence for the investigation. Above all, it is a tomb for the 96 victims, who were Polish citizens. It is the property of Poland and nobody has the right to use it for political means or to destabilise political life in Poland. It was not an ordinary disaster – the Polish head of State died as well as Polish and European citizens. Elected European representatives must do everything within our power to ensure that the wreckage is sent back to Poland. Another suggestion is that the wreckage should be transferred to the Netherlands to close the investigation and pay tribute to the victims, like the wreckage of the Malaysia Airlines Boeing 777 that crashed on 17 July 2014 in Eastern Ukraine.

There but for the grace of God go all of us.

Mr VAREIKIS (*Lithuania*) – I am not a technical person, a lawyer or a criminalist. When I saw this item of business on the schedule, my first question was: “Why does the Council of Europe discuss this?” Some people say that it is a simple, technical or a criminal issue but, if so, it is no business for the Council of Europe. In fact, we need to discuss it because it is political dispute between two countries.

We are a human rights Organisation and this plane crash is a human rights issue. Why? There is a lot of mythology, misunderstanding and disagreement about that. Human rights organisations have a right to know what happened. When we do not have all the facts or when we are given them one by one, we are suspicious. A lot of the mistrust has been created not by us, but by the Russians. We have a right to mistrust their evidence and we need answers. We have the right to trust or not trust the science. This is a human rights issue and the Council of Europe is the right place to discuss it.

We have a human right to hope that the problem will be solved. Hope, forgiveness and belief are very important in this institution. This week, we have had many discussions of issues and many fights because of a lack of hope. My question is whether the Russians can offer it to us. We as a human rights institution – I say this again and again – want to have sincere partners and sincere countries that recognise their sins. The Russian Federation also has to be very sincere. The main idea of the report is not to permit us to solve the technical, criminal or legal problem – it is to restore the hope, confidence and wish to co-operate. Only in that situation can we really be the Organisation for all Europe. We do not need the physical remains of the plane; we need the hope in order to co-operate with each other.

I support the report. I hope that we will not accept a difficult amendment that would weaken it. I also hope that afterwards another side will think again. Being sincere, open and co-operative is very useful in the Council of Europe.

Ms ARENT (*Poland*)* – On 10 April 2010, I was in Smolensk waiting for the plane that was flying the Polish delegation with President Lech Kaczyński and his wife at the helm. On this plane there were many most important people in Poland: the last president-in-exile, Ryszard Kaczorowski; deputy speakers of the Sejm and the Senate; MPs; friends; heads of State institutions; ministers; members of veterans’ organisations; and commanders of all types of armoured forces of the Republic of Poland. I would like to remind you that they were also commanders of NATO forces. It was the Polish delegation for the 70th anniversary of the Katyn massacre. Let me remind you that the Katyn massacre was the murder of over 21 000 Poles by the Russians in 1940 with a shot in the back of the head and burial in mass graves. It was genocide. President Lech Kaczyński, with the delegation on behalf of the Polish nation, wanted to commemorate the Poles murdered by the Russians. A great tragedy happened – the plane crashed. To this day, the causes of this catastrophe are not clear. After the crash, the Russians ordered us to leave at once. Under the escort of the army and the police, they took us to the station and put us on the train. They did not let us go to the place of the catastrophe.

To this day, we cannot ask for the return of the plane wreck from the Russians. Eight years passed and the Russian Federation did not give us our property. The plane wreck is owned by the Polish State.

I demand decisive action by the Parliamentary Assembly of the Council of Europe leading to the return of the Polish plane from the Russian Federation.

Mr LOPUSHANSKI (*Ukraine*) – The delegation of Ukraine fully supports the draft resolution, which requires the Russian Federation to return the wreckage of the presidential plane, the Tupolev, which crashed near Smolensk on 10 April 2010. The fragments of the plane are the property of the Polish State and should be immediately returned to the Polish side. For the Polish people, Russian Smolensk became a tragic symbol of the death of the Polish elite. In 1940, the representatives of the Polish military elite were liquidated by NKVD, and in 2010 the representatives of the modern Polish political elite were killed in the same area. This date became a black day in the calendar of Ukraine and the Ukrainian people. In a moment, we Ukrainians lost our true friends and partners. We look daily, in different directions, to deepen the strategic partnership between Ukraine and Poland.

Ukraine sincerely sympathises with the friendly Polish people who have suffered such a terrible loss. More than eight years have already passed, but the pain remains, because the investigation has not yet been completed. The whole picture of the tragedy is not presented to the world. The perpetrators are not punished. We cannot expect the truth from the Russian Federation. The Russian Federation is a specialist in hiding and misleading. She is very qualified in misappropriating the belongings of others. This applies to the wreckage as well as to the sovereign territories of neighbouring States such as Georgia and Ukraine. The international community was convinced of the so-called sincerity and honesty of the Kremlin. An example is the downfall of the passenger aircraft Malaysian Airlines MH-17. The Russian Federation, despite the credible findings of the international investigative commission, refused to recognise their responsibility for this tragedy. At the same time, the Russian Federation is giving ammunition to, and providing full support for, its mercenaries destroying the east of Ukraine with Russian weapons in their hands.

We condemn the withholding of the wreck of the Polish aircraft in the territory of the Russian Federation, which has no legal, moral or ethical ground. Obviously, the destructive position of the Russian Federation should be interpreted as the Kremlin's intention to use this wreckage as a political tool of influence on the Polish leadership to soften Warsaw's position on sanctions, reducing the level of support for Poland by Ukraine in confronting Russian aggression. But this tactic is wrong and short-sighted. I am convinced that Poland is confident in the position of rejecting aggressive Russian policies and does not agree with the Russian Federation's violation of international law. Any attempts to negotiate on the wreckage of the Polish presidential airplane are immoral, null and void, and have no prospect of success.

Taking into account the special importance of the issue under discussion for our Polish friends, as well in accordance with the current international climate, the delegation of Ukraine will vote for the resolution. We will insist that the Russian Federation turns back to international law and the fundamental principles of inter-State relations. We call on it to return the wreckage of the aircraft to the State to which it belongs.

The PRESIDENT – Thank you, Mr Lopushanski. That concludes the list of speakers. However, we have some time so I will give an opportunity to someone who wants to join the debate.

I call Mr Oehme. You have four minutes.

Mr OEHME (*Germany*)* – When the Tu-154M crashed near Smolensk in April 2010, many people who were on a special mission were killed. The delegation was led by Lech Kaczyński. They were going to commemorate the deaths in Katyn, and through this tragic accident their lives were cruelly cut short.

What are we discussing today? People want us to look for constructive solutions and not to be petty about bits of metal that are causing ructions between the East and the West. When the wreckage and the black box were examined, the Russians and the Polish were co-operating very well. It is interesting that they were not distracted by political assessments or media reports. However collegiate things were at that stage, the eventual findings were poles apart: the Interstate Aviation Committee said that the cause was a collision with a tree because of the low altitude, whereas a Polish Ministry of National Defence commission said at the beginning of 2018 that an explosion on board was the main cause of the accident. The same thing was mooted by Jürgen Roth, an investigative author who has since died. Referring to an alleged BND – German intelligence – report, he said that a possible explanation for the cause of the accident was likely to have been an explosion conducted by an FSB person, General Juri D., in the Ukrainian city of Poltava. The device was put in place by this general from Moscow. However, the German intelligence service – the BND – energetically denied it and said that there was no such report.

At the beginning of September, the Russians complied with the Polish desire to inspect the wreckage. In April 2010, Prime Minister Tusk accepted the findings from the investigation by Moscow, so I do

not really know what paragraph 10 by Mr Omtzigt is getting at. Even the media said that he was not very objective. He came up with a Russian man who he said had been an eyewitness to the crash, but who turned out to be an asylum seeker from Ukraine who had not witnessed the crash. Even the respected Dutch paper, NRC, said that this was counter-productive. On Twitter on 11 November 2017, Mr Omtzigt officially apologised.

One year before Smolensk, the then Russian Prime Minister, Mr Putin, embarked on a reconciliation offensive with Poland. Putin, Tusk and Merkel came together in September 2009 in Gdańsk – Danzig – to commemorate the 70th anniversary of the beginning of the Second World War. Vladimir Putin and Donald Tusk took the opportunity to set up a joint historical commission to look at the history of Katyn and work through that.

Finally, I would like to read from the speech that the Polish President was going to give in 2010, but was thwarted: “The tragic crime of Katyn and the fight against lies are an important experience for future generations. This is part of our history, our memories and our identity, and it is also a part of the history of Europe and of the world. This will remind us that lies can be very powerful, but it also shows that people and nations, even in the darkest of times, can decide to choose freedom and to defend the truth.” That is what we are here to do in the Council of Europe.

The PRESIDENT – Since no one else has asked to take the floor, I call Ms Ævarsdóttir to reply. You have eight minutes.

Ms ÆVARSDÓTTIR (*Iceland*) – I will try to reply as well as I can to the speakers in the debate. I thank Mr Zingeris, Mr Howell and Mr Bushati for the empathy, concern and support that I felt from them on this important issue. To all my Polish colleagues, I can only express my sympathies, empathy and thanks for the general tone of the debate. It has been very calm and respectful, and you have my full sympathies in regard to the events of 2010.

Turning to specific replies, Mr van de Ven understandably asked whether the report relates to our core values and whether it fits in with the Council of Europe’s mandate. I respond that this crash closely relates to the positive obligations that stem from Article 2, the right to life. States have an obligation to investigate accidents and deaths such as these in an independent and efficient way that also keeps the victims of such tragedies informed about the pursuit of the investigation, along with other standards that have been set in various cases by our European Court of Human Rights. I believe that the report has a direct connection with our mandate here in the Council of Europe. Although it is understandable that people might think that the report does not have a direct connection with democracy, human rights and the rule of law, it does in my view, and in the view of the committee.

On the ideas expressed by Mr Overbeek, while I commend his conciliatory approach, I cannot fully agree with its appropriateness in this case and particularly in regard to Amendment 1. The central premise of this report is really that international law obliges the Russian Federation to return the wreckage. I do not think there is any question about that. It is quite clear. It has been established since 2011 and I do not really think we need to debate that – I believe that it is clear to everyone involved.

Several colleagues, including Mr Arieu, encouraged all of us to adopt the report without any amendments. On the contrary, I encourage you to consider a compromise. A sub-amendment to Amendment 2 has been approved by the Committee on Legal Affairs and Human Rights. I believe that there might even be an oral sub-amendment to that, which I, as the representative of the rapporteur, would be happy to support. In that way, we would have a more conciliatory approach and we would also reach out to Mr Overbeek regarding his concerns. This would respect one of the most stellar aspects of this Assembly – namely, reaching a compromise between and across parties on important issues such as these, as well as others. Of course, everybody is bound by their own conscience. I think that as sub-amended, Amendment 2 fits well within the report. It does not take away its essence and comes close to compromise with those who have shown interest in the report.

All in all, I thank you for a very interesting discussion. I thank the Committee on Legal Affairs and Human Rights for all its work, and of course, Mr Omtzigt, for doing the report. Regrettably, he could not be with us today. I know that he sends you all his regards and urges you to adopt the report this afternoon.

The PRESIDENT – Thank you, Ms Ævarsdóttir. I call Ms Beselia to speak on behalf of the committee. You have two minutes.

Ms BESELIA (*Georgia*) – The committee has done a comprehensive job in preparing this very important report, which deals with a terrible tragedy of the Polish people. The committee held very interesting and important hearings with the participation of experts. It has fully supported the rapporteur, Pieter Omtzigt. The report was adopted by the committee, which also strongly supported Mr Omtzigt's position on the amendment yesterday.

The PRESIDENT – The Committee on Legal Affairs and Human Rights has presented a draft resolution to which two amendments have been tabled. They will be taken in the order in which they appear in the Compendium. I remind you that speeches on amendments are limited to 30 seconds.

I call Mr Overbeek to support Amendment 1.

Mr OVERBEEK (*Netherlands*) – I thank the representative of the rapporteur for her constructive approach. When we seek compromise in this Chamber, we seek it on formulations, not substance. We agree with the substantive statement in the first sentence of paragraph 8, but we do not think that the last sentence is conducive to realising what is called for in that first sentence. We therefore propose to delete the second sentence.

The PRESIDENT – Does anyone wish to speak against the amendment?

Ms ÆVARSDÓTTIR (*Iceland*) – The sentence that the mover of the amendment is suggesting we delete is a factual statement and it would not be conducive to delete it. Some facts might not sound very nice, but the sentence is quite clear and factual, and it fits. It simply reads: “The continuing refusal of the Russian authorities to return the wreckage...constitutes an abuse of rights and has fuelled speculation on the Polish side”. This is completely factual and correct, and it should remain in the report.

The PRESIDENT – What is the opinion of the committee?

Mr BESELIA (*Georgia*) – The committee is against.

The PRESIDENT – The vote is open.

Amendment 1 is rejected.

We come to amendment 2, which has a sub-amendment. I call Mr Overbeek to support the amendment. You have 30 seconds.

Mr OVERBEEK (*Netherlands*) – Out of respect to the families of the victims, an attempt should be made to reach a consensual resolution. Mediation is not about compromising; it is about the search for a common interest, not the continuation of conflict by other means. Hence we suggest that the amendment be adopted.

The PRESIDENT – I call Ms Ævarsdóttir to support the sub-amendment on behalf of the committee.

Ms ÆVARSDÓTTIR (*Iceland*) – The sub-amendment revises the language so that it fits better with the report. Instead of the words, “with the objective of bringing the unfortunate stalemate to a speedy and mutually satisfactory conclusion”, we would much rather the mediation was concerned with “how to implement the conclusions in paragraph 9.1.” This refers to the text of the resolution and is more factual.

The PRESIDENT – Does anyone wish to speak against the sub-amendment? I call Mr Tarczyński.

Mr TARCZYŃSKI (*Poland*) – We are very clear about this word “consensus”. We have been trying to find a consensus for eight years. In many other cases, we have been seeking co-operation for much longer. I will be very straight: we are against the sub-amendment.

The PRESIDENT – What is the opinion of the mover of the main amendment?

Mr OVERBEEK (*Netherlands*) – We are in favour of the sub-amendment.

The PRESIDENT – The committee is obviously in favour.

I shall now put the sub-amendment to the vote.

The vote is open.

The sub-amendment is adopted.

Does anyone wish to speak against the amendment, as amended? I call Mr Tarczyński.

Mr TARCZYŃSKI (*Poland*) – I ask you to vote against the amendment. This is not about negotiation. How can you negotiate with someone who is stealing your possessions? I am sure that everyone here has had something stolen from them. How can you negotiate with a thief? This is not about negotiation; it is all about truth. We are against the amendment.

The PRESIDENT – What is the opinion of the committee?

Ms BESELIA (*Georgia*) – The committee is in favour.

The PRESIDENT – I shall now put the amendment, as amended, to the vote.

The vote is open.

Amendment 2, as amended, is adopted.

We will now proceed to vote on the whole of the draft resolution contained in Document 14607, as amended. A simple majority is required.

The vote is open.

The draft resolution in Document 14607, as amended, is adopted, with 41 votes for, 0 against and 6 abstentions.

3. Free debate

The PRESIDENT – We now come to the free debate.

Mr Tarczyński, Mr Vareikis, would you mind having your conference outside?

I remind members that this debate is for topics not already on the agenda agreed on Monday morning. Speeches will be limited to four minutes. The debate will finish at 12.55 p.m. Once again, may I ask members to leave the room if you want to speak with each other?

I call Mr Wasserman.

Mr WASERMAN (*France, Spokesperson for the Alliance of Liberals and Democrats for Europe*)* – I draw the Chamber's attention to an issue of democracy of concern to all our countries: the protection of whistleblowers. I am the rapporteur on this topic and would like to make a request of the Chamber. The protection of whistleblowers is something that is not reflected in all our laws. The Committee of Ministers had a look at it in 2015, with an excellent report by Mr Omtzigt, and we have the opportunity to see how we can implement rules and regulations in this area.

First, it would be appropriate to take stock of the situation, look at good practices and see how we implement those rules and regulations and where the gaps are. We need to work on criteria, just as the Venice Commission did on the criteria governing the rule of law, that will help us to make progress. Secondly, we want to reflect on how civil society organises itself, because contrary to issues such as bioethics, where all stakeholders and civil society are organised, civil society does not have a common approach to whistleblowers. We must discuss things and have proper legislation.

The message I would like to share with you is that of the protection of whistleblowers. I speak on behalf of the ALDE group. This is a democratic issue. We are many parliamentarians from different countries reflecting on the implementation of these rules and regulations, so aside from what will be said in the report, the ALDE group and I would be greatly honoured if many of you could provide a contribution and tell us the breakthroughs and difficulties you have encountered in the implementation of the new rules and regulations.

The democratic requirement that we have, to work on ensuring the protection of whistleblowers, is extremely topical. Yesterday, in a beautiful democracy, the Swiss democracy, justice decided not to

sentence Mr Elmer, a whistleblower who worked in a bank. The prosecution had asked for 36 years in prison. Luckily, Swiss justice decided in favour of Mr Elmer. This is a topical issue and raises many questions in our democracy, so I make this appeal: please provide your contributions, because to protect whistleblowers is to protect our democracy.

(Ms Maury Pasquier, President of the Assembly, took the Chair in place of Mr Jonas Gunnarsson)

The PRESIDENT* – I obviously pricked up my ears when you were praising the judiciary in my country, Mr Waserman.

I call next Ms Şupac.

Ms ŞUPAC (*Republic of Moldova, Spokesperson for the Group of the Unified European Left*)* – In February 2019, the Republic of Moldova will have yet another general election. What will win the day? Will it be geopolitics, money and vested interests, or common-sense democratic principles and human rights? These questions are not only relevant to those who live in the Republic of Moldova, but topical for the international community.

Here in this very Chamber are members with many years of seniority behind them who will probably remember that, for example, in 2012, the Republic of Moldova was praised far and wide across Europe as the success of the century. Yet that was the same year that the Moldovan Communists were ringing the alarm bells, looking at the catastrophic situation in the banking sector. It was the same year that the Moldovan Communists were saying that the Republic of Moldova was in fact a captive State. It was the same year that there was concern about the terrible deterioration of the situation in the country, which the UEL was raising here in the Parliamentary Assembly of the Council of Europe. At the time, though, it was geopolitics, money and vested interests that prevailed.

Now we are reaping the fruit of that pyrrhic victory. You will not find any State institution in the Republic of Moldova that is still independent. Everybody knows, of course, who is pulling the strings. The Democratic Party in the Moldovan Parliament, by some miracle, grew from 19 to 42 MPs, and everybody knows the price of this Moldovan miracle and who the magician is. The investigation into the theft of \$1 billion from three Moldovan banks has been going for four years now, and everybody knows who the beneficiaries of that unprecedented crime are. It is probably true that some of them will become members of the Parliamentary Assembly in the formation of the next parliament, and they will come here and make saccharine speeches to you. Such a paradox is quite possible, due to the fact that Moldovan authorities ignored the recommendation of the Venice Commission and changed the electoral system.

In the last few days, they have privatised the State air company, Air Moldova. I do not know whether there are any examples in other countries of the Council of Europe where one of the biggest State companies, with a capital of €15 billion and a turnover of €150 billion, was acquired by a company with a capital of only €25,000, which was only registered one week before the end of tendering. During that period, amendments were added – quite by chance – to the criminal code that allowed the sale of air fuel duty free. I should perhaps remind you that in 2015 the Moldovan airport was given away as a concession for 49 years into private hands and, of course, they are exactly the same hands.

But the Moldovan authorities do not care about the Republic of Moldova; their machinations are on an international level. When Turkey suddenly gave €10 million for the reconstruction of the building for the President's administration in the Republic of Moldova, society obviously thought, "What will be the price of this generous present?" The answer was not long in coming. On 16 September in Chişinău, seven Turkish teachers were abducted and immediately deported to Turkey, where they are now behind bars. The European Parliament passed a resolution on 5 July that was very critical of the Republic of Moldova, and is preparing another, even harsher one, saying that it is a captured State.

It seems now that the scales are tipping in a different direction, but bearing in mind previous negative experience, the UEL feels it is important to call upon the Council of Europe and other international structures not to play ball with the Moldovan oligarchs because of mythical so-called geopolitical interests.

Ms PASHAYEVA (*Azerbaijan*) – The year 2018 was marked by the 100th anniversary of a historic event of great importance to the history of Azerbaijan. We celebrated the 100th anniversary of the first democratic republic established in Azerbaijan, for the first time in the Muslim east – the first parliament set up anywhere in the eastern world – along with the official representatives of many international organisations around the world, together with their high-ranking foreign representatives. I want to express my gratitude to the representatives of all the countries and organisations that are in Azerbaijan at such an important moment

and who have made speeches with good ideas. As a female deputy, I want to emphasise with special pride just one of the factors that demonstrate what great importance the Azerbaijani people attached to democratic values 100 years ago. Azerbaijan gave women the right to elect and be elected 100 years ago, when unfortunately women in most parts of the world did not have those rights.

Despite all these achievements, the people of Azerbaijan have suffered great sorrows and sufferings. I note with great regret that this year will mark the 100th anniversary of the forced extradition of the ancient region of Azerbaijan, Irvan, from Azerbaijan to Armenia. The Russian researcher Shavrov, who studied the process of placing Armenians in the south Caucasus at the beginning of the 19th and early 20th centuries, based on the reputable archives of the Tsarist Government, showed in his book, "A new threat to Russian affairs in the Caucasus", published in 1911, that out of 1.3 million Armenians living in the Caucasus at the beginning of the 20th century, 1 million people were not local residents but had been deported to the Caucasus by the Russians.

Some 78% of the geographical names in the territory of Armenia on the Transcaucasian map published in Moscow in 1931 were of Azerbaijani origin and only 3.45% were of Armenian origin. However, for many years Armenian officials have carried out a policy of ethnic cleansing by forcibly expelling Azerbaijanis from their historical lands and destroying the historical and cultural monuments of Azerbaijanis, and changing their place names.

We should not forget that this year is the 70th anniversary of the deportation of hundreds of thousands of Azerbaijanis from their homes in Armenia in 1948. The Azerbaijanis who lived through that terrible tragedy could not return to their homes. The absence of serious international pressure for those terrible crimes committed by the Armenian leadership created the foundations for new crimes. I tell you with great and heartfelt pain that, in 1988, the Armenian leadership drove all Azerbaijanis out of their homes by pursuing a terrible ethnic cleansing policy. This year will be the 30th anniversary of that terrible crime, which took place in front of the whole world. I will never forget the sadness of the Azerbaijani families who came from Armenia to Azerbaijan, sorrowfully and painfully.

To date, the right of tens of thousands of Azerbaijani refugees to return to their homes has not been recognised by Armenia. I call on our Organisation to keep those issues on the agenda and hear the voices of those people. They encourage you to support the protection of their damaged rights.

Mr ŠEŠELJ (*Serbia*) – Nineteen years ago, NATO brutally bombed the Republic of Serbia. The result of that aggression was that the region of Kosovo and Metohija was put under the control of the United Nations Mission in Kosovo, within the borders of Serbia. The western part of the international community has supported the Albanian terrorist organisation, the Kosovo Liberation Army, which now has control of most parts of Kosovo. Since then, the Serbs in the region have lived as second-class citizens, molested on a regular basis by the Albanian majority. The crisis erupted in 2004, when terrorists killed 28 Serbs, burned dozens of churches and monuments, and banished more than 4 000 people.

Recently, an official of the Serbian Government was arrested by the so-called special forces of Kosovo, in a town with a Serbian majority in the north of Kosovo. He was transported to Pristina, where he was tortured and paraded through the streets like a beaten dog. The so-called President of Kosovo, a terrorist who was in charge of an organ trafficking mafia, stormed a town with a large Serb population as a provocation to the local Serbs.

All those events have had support from the United States, the European Union and all the European institutions. Today, Serbia is a candidate for membership in the European Union. As a condition for accepting Serbia, the European Union wants Serbia to recognise the so-called Republic of Kosovo as an independent State, despite the United Nations Security Council Resolution 1244, which guarantees the sovereignty and territorial integrity of Serbia, including Kosovo and Metohija, as integral parts of the Serbian territory.

The Republic of Serbia will never become a member State of the European Union, because the Serbian people will never accept that humiliation. The Serbian people will never be reconciled with the occupation and creation of a terrorist, drug and organ trafficking State on their territory, and will never exchange their territory for membership in any international organisation.

Mr RAMPI (*Italy*)* – I say with great emotion that it is a real honour to make my maiden speech in this Chamber. This week, we have worked very hard indeed and have flagged problems across various countries. The overriding purpose has been, of course, to defend rights and freedoms in all our countries.

I have listened to other debates this week and I echo what our colleague from the Republic of Moldova said. It is a matter that is very dear to my heart and I have the greatest sympathy for our Polish colleagues.

There is an issue that concerns my own country, and we should all be looking at what is going on in our own backyard. We have a problem with the separation of powers, one of the building blocks of democracy. What we have now is a new form of democracy very subtly creeping across our continent. We are moving away from a formal system of parliaments and elections. Often, we do not have that crucial key element of democracy, which is respect for minorities, and an awareness, above all, that we have a people made up of citizens. There should not be a system in which the majority decides for everyone, but rather one in which, although the majority decides, minorities can express their opinions freely, regardless of the views of the majority. That should be one of the overriding priorities of the Parliamentary Assembly.

We should be investing more in culture because I believe that we are at an historic turning point. We came together in the aftermath of war in an act of reconciliation and we have taken decisive steps forward. The fall of the Berlin Wall was the occasion for a new pact among Europeans. What we have seen in recent years is a situation in which we have had an expansion of culture, democracy and the rule of law – a system of rules that apply across the board, to everyone without exception, majorities and minorities included, as well as an area in which we exercise our rights. However, that space is now receding.

We need to look at real democracy. I am not thinking of real socialism. Rather, I am thinking that we should have a serious and rigorous approach to an age of enlightenment. We should fight any excesses and abuses of so-called real democracy and we should look at a real new horizon for democracy.

I come from Milan in Italy, but I work in Rome. That is where democracy began. Whenever anybody speaks in the United States Senate, we think of the first Senate, the Senate of Ancient Rome. We are worried about the fact that various forms of democracy are losing ground and are being transformed into something different. That is why I say that I think we are at a turning point. We should continue to address that issue.

Mr ALTUNYALDZI (*Turkey*) – Terrorism is not a new phenomenon. It has always been a security challenge for governments and a source of fear for ordinary people. There is no justification for terrorism and it should be condemned unconditionally.

Turkey is combating all kinds of terrorism and terrorist organisations, including Daesh, PKK and YPG. Turkey has been fighting terrorist organisations for more than 40 years. They have been systematically violating the basic human rights of Turkish citizens and brutally killing people, including children, and destroying their properties, among other acts of violence.

Terrorist organisations are a threat not only to Turkey but to Turkish citizens abroad. They also pose a serious threat to the public safety and national security of member States of the Council of Europe. Unfortunately, terrorist organisations are very good at exploiting legal loopholes to inaccurately depict themselves as organisations with peaceful purposes. If member States wish to be resolute in combating terrorism in all its forms, they should address those loopholes in order to prevent such vile organisations from taking root in European territories. It is a shame that supporters of terrorist organisations are free to organise unauthorised demonstrations in public places and that internationally recognised terrorist organisations are allowed to stage demonstrations in front of this very building of the Council of Europe. Such demonstrations are against the values of this Organisation: human rights, democracy and the rule of law.

The tolerance shown to these organisations constitutes a serious threat to global stability and welfare. It also encourages terrorist organisations to claim more innocent lives, instil fear and disrupt peace on a global scale. If we are sincere about fighting terrorism, our only option is to dearly uphold the values of the Council of Europe.

Mr ROCA (*Spain*)* – 526 years ago, a European expedition discovered a new continent: America. The printing press was invented near Strasbourg. Spectacular progress has been made, including in the fields of artificial intelligence and drones, and we have better means of energy production and better security. Great discoveries have been made in science, technology, health and culture, as my Italian colleague, Mr Rampi, has said.

New technologies are changing people's private activities and we have to guarantee that such breakthroughs benefit public services, because we are confronted with new challenges. We need new services, and we need to guarantee new rights and support those who provide the breakthroughs. We must also provide proper incomes for workers in the transport, health and pension sectors, so that everyone can

benefit from a minimum income. We must facilitate greater security, clean energy and means of rapid communication, so that the new technologies can truly help us to protect our planet. We are among the privileged and therefore we must take care of those who are most vulnerable, particularly our compatriots in Africa and those who take to the seas and whose boats sink in the Mediterranean.

Security and transparency – for water, transport, energy, health and education, which is fundamental in ensuring freedom and progress – form the very basis of democracy and human rights. We must protect the rights of children and women. Developments mean that we are among the privileged and we need to nurture and promote democracy so that it can benefit everyone.

Mr DOUBLE (*United Kingdom*) – As I said yesterday, this is my first time at the Council of Europe. I am particularly proud to be here this week, because I am reliably informed that I am the first member of the Parliament of the United Kingdom from Cornwall to sit in this Assembly.

Cornwall is a unique place. It is located in the far south-west of Great Britain and is a peninsula that sticks out into the Atlantic. We are surrounded on three sides by the ocean, and on the fourth side by a river that falls just two miles, or 3 km, short of making us an island. In many ways, the Cornish have an island mentality.

It is not just our geography that makes us unique. We have a unique heritage and culture within the United Kingdom. We have our own language, which is experiencing a revival in recent times, with more and more people taking an interest in it.

Why am I saying this? In 2014, the Council of Europe recognised the Cornish as a unique national minority within the United Kingdom. I want to take this opportunity, during my first week at the Assembly, to thank the Council of Europe for providing that recognition. The Government of the United Kingdom also said in 2014 that it, too, recognised the Cornish in that way and that we would be given the same recognition within the United Kingdom as the other Celtic regions: the Scottish, the Welsh and the Northern Irish. We were very pleased to hear that, but, sadly, very little progress has been made in recognising the Cornish as a national minority in the United Kingdom. In fact, a 2016 Council of Europe report criticised the Government of the United Kingdom for that lack of progress.

As an example of how this issue is manifesting itself, the Cornish are trying to get a tick box included in the next United Kingdom census, in 2021, so that Cornish men and women across the United Kingdom have the right to identify themselves as Cornish. As yet, however, we have not managed to persuade the Government of the United Kingdom.

I thank the Council of Europe for its support for the Cornish, and ask it to continue its good work in supporting not only the Cornish but all national minorities across Europe. We live in a time when it is more important than ever that the Council of Europe continues to recognise and support national minorities across Europe and to promote and protect them in every way possible.

I will finish with a Cornish phrase: “Kernow bys vyken”, which means “Cornwall for ever”.

The PRESIDENT* – That concludes the list of speakers.

The debate is closed.

4. Progress report of the Bureau and the Standing Committee

The PRESIDENT* – We turn now to the progress report of the Bureau and the Standing Committee.

This morning the Bureau has proposed several references to committees. They are set out in the progress report, Document 14632 Addendum 3. These references must be submitted for ratification by the Assembly in accordance with Article 26.3 of the rules.

Are there any objections to these references? That is not the case.

The references are approved.

I now propose that the other proposals in the progress report, Document 14632 Addendum 3, be ratified.

Are there any objections? That is not the case.

The progress report is approved.

5. Voting champions

The PRESIDENT* – Before we conclude the part-session, I am pleased to be able to announce the names of our voting champions of the week. They are the members who have taken part in the most votes during this part-session.

They are:

Ms Lise Christoffersen
Mr Valeriu Ghiletschi

Mr Ghiletschi is here, so there is at least one person to whom I will be able to give a little gift. I congratulate both the voting champions on their assiduity. We need committed members like you. We have small gifts for the champions and I invite them to come and collect them.

6. Closure of the part-session

The PRESIDENT* – We have now come to the end of our business.

I would like to thank all members of the Assembly, particularly the rapporteurs and chairpersons of committees, for their hard work during this part-session.

I would also like to thank all the vice-presidents who have assisted me in presiding over the sittings of the Assembly this week. They are:

Mr Volodymyr Ariev
Ms Rósa Björk Brynjólfssdóttir
Sir Roger Gale
Mr Jonas Gunnarsson
Mr Alfred Heer
Ms Stella Kyriakides
Mr Joseph O'Reilly

In addition, I would like to thank all the staff who have allowed the part-session to be conducted so successfully. I also thank the interpreters, without whom we could not understand each other.

The first part of the 2019 session will be held from 21 to 25 January 2019, although we may see each other at various committee meetings before then.

We have now come to the end of our business.

I declare the fourth part of the 2018 session of the Parliamentary Assembly of the Council of Europe closed. Bon voyage.

(The sitting was closed at 12.35 p.m.)

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Draft recommendation in Document 14618 adopted

2. The crash of Polish Air Force Tu-154M transporting the Polish State delegation, on 10 April 2010, on the Russian Federation's territory

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5. Voting champions

6. Closure of the part-session

Appendix / Annexe

Representatives or Substitutes who signed the register of attendance in accordance with Rule 12.2 of the Rules of Procedure. The names of members substituted follow (in brackets) the names of participating members.

Liste des représentants ou suppléants ayant signé le registre de présence, conformément à l'article 12.2 du Règlement. Le nom des personnes remplacées suit celui des Membres remplaçant, entre parenthèses.

ÆVARSDÓTTIR, Thorhildur Sunna [Ms]
 ALTUNYALDIZ, Ziya [Mr]
 ARENT, Iwona [Ms]
 ARIEV, Volodymyr [Mr]
 AST, Marek [Mr] (*BAKUN, Wojciech [Mr]*)
 BAKRADZE, David [Mr]
 BARNETT, Doris [Ms]
 BAYR, Petra [Ms] (*ESSL, Franz Leonhard [Mr]*)
 BEREZA, Boryslav [Mr]
 BERNACKI, Włodzimierz [Mr]
 BESELIA, Eka [Ms] (*PRUIDZE, Irina [Ms]*)
 BRUIJN-WEZEMAN, Reina de [Ms] (*STIENEN, Petra [Ms]*)
 BRYNJÓLFSDÓTTIR, Rósa Björk [Ms]
 BÜCHEL, Roland Rino [Mr] (*FIALA, Doris [Mme]*)
 BUDNER, Margareta [Ms]
 BURES, Doris [Ms]
 BUSHATI, Ervin [Mr]
 ÇELİK, Sena Nur [Ms]
 CHRISTOFFERSEN, Lise [Ms]
 CILEVIČS, Boriss [Mr] (*LAIZĀNE, Inese [Ms]*)
 DAMYANOVA, Milena [Mme]
 DOUBLE, Steve [Mr] (*DONALDSON, Jeffrey [Sir]*)
 EBERLE-STRUB, Susanne [Ms]
 ERDEM, Arzu [Ms] (*ÇETİN, Cemal [Mr]*)
 ESTRELA, Edite [Mme]
 GATTOLIN, André [M.] (*MAIRE, Jacques [M.]*)
 GERMANN, Hannes [Mr] (*HEER, Alfred [Mr]*)
 GHILETCHI, Valeriu [Mr]
 GRAF, Martin [Mr]
 GUNNARSSON, Jonas [Mr]
 HEINRICH, Frank [Mr] (*VOGEL, Volkmar [Mr]*)
 HOWELL, John [Mr]
 HRISTOV, Plamen [Mr]
 HUSEYNOV, Rafael [Mr]
 JANIK, Grzegorz [Mr] (*HALICKI, Andrzej [Mr]*)
 JANSSON, Eva-Lena [Ms] (*KARLSSON, Niklas [Mr]*)
 KILIÇ, Akif Çağatay [Mr]
 KIRILOV, Danail [Mr] (*GROZDANOVA, Dzhema [Ms]*)
 KOBZA, Jiří [Mr] (*BENEŠIK, Ondřej [Mr]*)
 KOÇ, Haluk [M.]
 KOPŘIVA, František [Mr]
 LEITE RAMOS, Luís [M.]
 LEŚNIAK, Józef [M.] (*MILEWSKI, Daniel [Mr]*)
 LOGVYNSKYI, Georgii [Mr]
 LOPUSHANSKYI, Andrii [Mr] (*BILOVOL, Oleksandr [Mr]*)
 MASIULIS, Kęstutis [Mr] (*TAMAŠUNIENĖ, Rita [Ms]*)
 MIKKO, Marianne [Ms]
 MULARCZYK, Arkadiusz [Mr]
 NENUTIL, Miroslav [Mr]
 OBREMSKI, Jarosław [Mr] (*WOJTYŁA, Andrzej [Mr]*)
 OEHME, Ulrich [Mr] (*KLEINWAECHTER, Norbert [Mr]*)
 ORLANDO, Andrea [Mr]

OVERBEEK, Henk [Mr] (*MAEIJER, Vicky [Ms]*)
 PASHAYEVA, Ganira [Ms]
 PODERYS, Virgilijus [Mr] (*BUTKEVIČIUS, Algirdas [Mr]*)
 RAMPI, Roberto [Mr]
 ROCA, Jordi [Mr] (*GARCÍA HERNÁNDEZ, José Ramón [Mr]*)
 ROJHAN GUSTAFSSON, Azadeh [Ms] (*OHLSSON, Carina [Ms]*)
 ŞAHİN, Ali [Mr]
 SANTA ANA, María Concepción de [Ms]
 SCHÄFER, Axel [Mr]
 SCHENNACH, Stefan [Mr]
 SCHWABE, Frank [Mr]
 ŠEŠELJ, Aleksandar [Mr]
 SIDALI, Zeki Hakan [Mr]
 SOLEIM, Vetle Wang [Mr] (*SCHOU, Ingjerd [Ms]*)
 ŞUPAC, Inna [Ms]
 TARCZYŃSKI, Dominik [Mr]
 TÜRKEŞ, Yıldırım Tuğrul [Mr]
 VAREIKIS, Egidijus [Mr]
 VEN, Mart van de [Mr]
 VOGT, Günter [Mr] (*WENAWESER, Christoph [Mr]*)
 WASERMAN, Sylvain [M.]
 ZINGERIS, Emanuelis [Mr]

Also signed the register / Ont également signé le registre**Representatives or Substitutes not authorised to vote / Représentants ou suppléants non autorisés à voter**

ANTL, Miroslav [M.]
 HAMZAYEV, Nagif [Mr]
 KANDELAKI, Giorgi [Mr]

Observers / Observateurs

GALVEZ, Rosa [Ms]
 HARDER, Rachael [Ms]
 SIMMS, Scott [Mr]
 WHALEN, Nick [Mr]

Partners for democracy / Partenaires pour la démocratie

Representatives of the Turkish Cypriot Community (in accordance to Resolution 1376 (2004) of the Parliamentary Assembly) / Représentants de la communauté chypriote turque (Conformément à la Résolution 1376 (2004) de l'Assemblée parlementaire)

CANDAN Armağan
 SANER Hamza Ersan