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Council of Europe Commissioner for Human Rights – stock-taking and perspectives

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Jean-Charles GARDETTO, Monaco, Group of the European People's Party

Summary

The Committee on Legal Affairs and Human Rights welcomes the brisk and steadfast progress of the institution of the Commissioner for Human Rights since its establishment.

The Committee is aware that the hopes placed in the Commissioner are considerable. It takes note of the prospects for widening the Commissioner's mandate referred to in Protocol No 14 to the European Convention on Human Rights, in the Juncker report, entitled "Council of Europe – European Union: a sole ambition for the European continent", and in the Group of Wise Persons' report on the efficiency of the European Court of Human Rights, which are a testament to the confidence which the institution enjoys.

The Committee insists on the necessity to endow the Commissioner with the human and financial resources to enable him to live up to the great hopes placed in him. Moreover, it recalls that the independence of the institution is its great strength, and emphasises how crucial it is for this to be safeguarded and respected unreservedly.

In the draft resolution, the Committee asks the Assembly to encourage and support the Commissioner in continuing to expand his activities in areas in which he can clearly make a highly beneficial contribution. In general, the Committee also encourages the Commissioner to continue to look for potential areas of interaction with other Council of Europe bodies out of a constant concern to avoid duplicating similar work carried out by other sectors of the Organisation.

A. Draft resolution

1. The Parliamentary Assembly recalls at the outset the recommendations it made in 2004 in Recommendation 1640 (2004) – some of which are still relevant – and reiterates its desire to give its political backing to the work of the Council of Europe Commissioner for Human Rights (“the Commissioner”).
2. The Assembly welcomes the brisk and steadfast progress of the institution of the Commissioner for Human Rights since its establishment. This relatively new institution can and must expand on its experience and develop further so that it can really come into its own.
3. The Assembly takes note of the prospects for widening the Commissioner’s mandate referred to in Protocol No 14 to the European Convention on Human Rights (“the Convention”), in the Juncker report, entitled “Council of Europe – European Union: a sole ambition for the European continent”, and in the Group of Wise Persons’ report on the efficiency of the European Court of Human Rights (“the Court”), which reflect the confidence that the institution enjoys.
4. Initially, the broad nature of the Commissioner’s mandate was an undoubted asset. In the long term, however, it could entail certain drawbacks, such as the dissipation of the Commissioner’s efforts, and prevent him from concentrating his resources on certain essential activities. The possibility of reviewing his terms of reference to target them more specifically in the light of experience might be considered in due course.
5. The Assembly would like to see the Commissioner to be enabled to follow the situation of human rights in all member states simultaneously and encourages him to persevere in his efforts to increase his presence in the member states, which the Assembly regards as crucial. It is aware that this task requires appropriate funding.
6. The Assembly notes with concern that the considerable hopes placed in the Commissioner are hardly matched by the resources at his disposal, even though the latter have been increased recently. The Assembly strongly condemns this situation, which undermines the institution’s viability and credibility, and calls for a substantial increase in the financial and human resources at the Commissioner’s disposal in order to fulfil his mission and for these resources to be given the predictability and stability required for the Commissioner to carry out his tasks successfully. The Assembly therefore encourages the Commissioner to inform it annually of his plans and the means required to carry them out.
7. The Assembly supports the idea of a possible unconditional financial contribution by the European Union to fund the Commissioner’s activities; its modalities will have to be specified in such a way as to safeguard the Commissioner’s independence.
8. The Assembly emphasises that the Commissioner’s independence is a great strength, constituting an absolute prerequisite for him to perform his duties properly, and must be a constant priority. This independence must be safeguarded and, where necessary, reinforced, so that the Commissioner’s impartiality is always guaranteed. The Assembly considers that the Commissioner’s independence could be consolidated, *inter alia*, through procedural measures designed to give him more say in budgetary and staff management matters. It welcomes the fact that the Commissioner is now more involved in determining his budget. The member states and other Council of Europe bodies must respect the independence not only of the Commissioner but also of his partners, particularly that of national human rights structures (NHRSs), in other words, national human rights commissions or institutions and independent ombudsmen.
9. Co-operation of the Commissioner with institutions outside the Council of Europe is a core aspect of his work. The Assembly welcomes the fact that good working relationships have been established in particular with the European Union, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and the Organization for Security and Co-operation in Europe and encourages the Commissioner to build on these relationships so as to make use of opportunities for interaction.
10. In this connection, the Assembly invites the European Fundamental Rights Agency to consider the Commissioner as an essential partner and take full account of his activities; it encourages the European Union to offer the Commissioner its support and envisage the possibility of funding some of the activities and projects run by the Commissioner’s Office.
11. To ensure the long-term survival and the efficiency of the Convention’s monitoring system, the backlog in the Court needs to be relieved. The Assembly takes the view that, working in conjunction with the

NHRSSs, the Commissioner should make a key contribution here by identifying or helping to eliminate any practices liable to trigger applications to the domestic courts and, ultimately perhaps, the Strasbourg Court. The Assembly encourages the Commissioner in his efforts to tackle the roots of human rights violations and develop alternative or complementary out-of-court means of securing protection of those rights. In particular it calls on the Commissioner to foster the implementation in each member state of independent mediation systems consistent with the principles of the Convention.

12. In this context, the Assembly welcomes the Commissioner's undertaking to make public, before the entry into force of Protocol No 14 to the Convention, the criteria which will guide his interventions before the Court under his new powers as set out in that Protocol. It calls on him to make use of these powers only in cases involving systemic problems, where general measures need to be taken by member states.

13. The Assembly also notes that, when it comes to monitoring the execution of Court judgments, the Commissioner and the NHRSSs are well placed to inform the Court and the Committee of Ministers as to whether or not practices or situations already declared in breach of the Convention by the Court persist or have actually been stopped and urges them to do so. The Assembly welcomes the Commissioner's plan to make structural problems highlighted by the Court one of the priority issues in his dialogue with the authorities of the member states.

14. The Assembly notes with interest the Commissioner's proposal to extend his activities in monitoring the execution of Court judgments including by stepping up efforts to assess the compatibility of legislation, bills before parliament and national administrative practices with the Convention. The Assembly encourages the Commissioner to pursue these efforts and to cooperate with it in this respect.

15. The Assembly also welcomes that the Commissioner has expressed his willingness to offer his support when it comes to monitoring the implementation of the Court's "pilot judgments" and encourages this initiative.

16. In connection with the greater role that the Commissioner shall be required to play in monitoring compliance with the Convention, the Assembly considers it essential for effective co-operation mechanisms to be set up, as indicated in particular in the explanatory report, firstly, to enable the Court to highlight in its judgments underlying structural problems and bring them to the knowledge of the member states, the Committee of Ministers, the Commissioner, the Assembly and the competent Council of Europe bodies and, secondly, to ensure that there is fruitful interaction between the Court, the Assembly, in particular its Monitoring Committee, the Committee of Ministers, the Venice Commission, the European Commission against Racism and Intolerance (ECRI), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Committee of Social Rights (CEDS), the other competent Council of Europe bodies and the Commissioner. The arrangements for such mechanisms could be discussed at annual tripartite meetings between representatives of the Committee of Ministers, the Parliamentary Assembly and the Commissioner.

17. The Assembly is of the opinion that, as part of this interaction, the Commissioner and the Court must co-operate in determining the fields covered by "pilot judgments" and securing improved execution of Court judgments, as recommended in the Committee of Ministers' Declaration of 19 May 2006.

18. The Assembly points out that, for consistency's sake and in order to make the best possible use of the Council of Europe's, alas overly limited, resources, the Commissioner has the statutory duty, under Article 1 § 2 of Committee of Ministers Resolution 99(50), to ensure that he does not duplicate the work of other sectors of the Organisation. An effort to rationalise and to coordinate the Council of Europe's activities, to regularly exchange information and improve communication and cooperation between its bodies should accordingly be made by the Organisation as a whole so as to coordinate its activities more effectively and focus on the areas of excellence – human rights, democracy and the rule of law - which are its reason for existing.

19. The Assembly also considers it essential for each member state to have its own independent institution, along the lines of an ombudsman's office, with competence for human rights matters and in a position to perform its tasks properly. The Assembly considers that good cooperation between the ombudsman's office and the national human rights bodies is likely to strengthen the effectiveness of human rights protection. It accordingly supports the decision by the Commissioner and the UN High Commissioner for Human Rights to step up their efforts under the technical assistance pilot project, JOIN (Joint Operations for Independent National Institutions for the Promotion and Protection of Human Rights), to encourage the setting up, in Council of Europe member states which do not already have them, of national human rights institutions that comply with the requirements of the 1992 Paris Principles. In addition, the Assembly deems

it appropriate that, where the need arises, specialised ombudsmen should be appointed in each member state, for example an ombudsman for children as already recommended by the Assembly in its Resolution 1530 (2007) on Child victims: stamping out all forms of violence, exploitation and abuse.

20. Broadly speaking, on the one hand, the effective implementation of the Commissioner's recommendations should be more closely monitored with the help of other Council of Europe bodies, particularly the Parliamentary Assembly, and on the other hand, the Commissioner should verify, particularly during his visits to member states, the follow-up action being given by the latter to the Assembly's resolutions and recommendations on human rights.

21. The Assembly therefore encourages and supports the Council of Europe Commissioner for Human Rights in his efforts to:

21.1. determine and make public how he proposes to organise his activities before the Court in a manner compatible with the explicit prohibition of a judicial role set forth in the Resolution instituting the Office of Commissioner (Resolution (99)50), and invites the Commissioner and the Court to ensure that the two institutions exchange relevant information;

21.2. intensify his co-operation with the NHRs and with other Council of Europe sectors concerned by supervision of the execution of Court judgments, and, in particular, pay special attention to structural problems highlighted by the Court in his dialogue with the member states' authorities;

21.3. look into the opportuneness and means of reinforcing his presence on the ground in the member states;

21.4. ensure that there is continuing interaction and the best possible co-ordination with other Council of Europe sectors.

22. The Assembly calls on the Council of Europe Commissioner for Human Rights to:

22.1. continue to react rapidly and flexibly to topical issues, inter alia by issuing more frequent ad hoc recommendations and by preparing thematic reports;

22.2. draw up regular reports on the follow-up action given to his recommendations, identify impediments to their implementation and make these reports public;

22.3. invite, on subjects of joint concern, members of the secretariats of other relevant Council of Europe bodies to join his Office's delegation when he is visiting member states, on a reciprocal basis;

22.4. review action taken on relevant Assembly resolutions and recommendations when visiting member states;

22.5. in the course of his work assess also the human rights situation in Council of Europe member states which are not or are no longer subject to the Assembly's monitoring procedure;

22.6. verify member states' compliance with their duty to co-operate with the Court and provide them with the assistance they need to fulfil this objective;

22.7. extend and enhance his co-operation with NHRs, in particular on the basis of the eleven proposals set out at the 10th Round Table of European Ombudsmen and the Council of Europe Commissioner for Human Rights held in Athens on 12 and 13 April 2007, and consider setting up a mechanism for the protection of human rights defenders, in particular in emergency cases.

23. The Assembly also invites the relevant authorities of all the member states to:

23.1. co-operate unreservedly with the Commissioner for Human Rights;

23.2. fully and rapidly implement his recommendations;

23.3. set up independent ombudsmen and NHRs competent in human rights matters, where they do not already exist;

23.4. provide NHRs with appropriate human and financial resources and ensure that they are independent;

23.5. draw up, if they have not yet done so, national human rights action plans in co-operation with the Commissioner.

24. The Assembly resolves to refer more regularly in its activities to the relevant recommendations of the Commissioner and declares its willingness to react promptly to any requests from the Commissioner to support him, notably by calling on the national parliaments concerned, in the implementation of his recommendations, in particular when member states persist in ignoring these recommendations.

25. The Assembly resolves to respond to the Commissioner's annual report by giving its own views and examining the activities that are subject to cooperation with the Commissioner.

26. The Assembly calls on its Monitoring Committee to incorporate in its monitoring procedures, and systematically remind member states of, the Commissioner's recommendations with regard to states subject to a monitoring or post-monitoring procedure on the honouring of their commitments and ask them to implement any recommendations by the Commissioner that have not been acted upon within a reasonable time.

B. Draft recommendation

1. The Parliamentary Assembly, referring to its Resolution ... (2007) on the Council of Europe Commissioner for Human Rights - stock-taking and perspectives, recommends that the Committee of Ministers:

1.1. ensure that the Human Rights Commissioner's independence is respected at all levels, including when it comes to the organisation of his Office, the determination of his budget in a way that takes into account the programme of work he seeks to and is expected to implement, and the choice of his staff;

1.2. allocate the Commissioner's Office the funds it needs to carry out its tasks, particularly to enable it to assess regularly the human rights situation in all the member states and properly perform its forthcoming functions before the European Court of Human Rights;

1.3. make practical arrangements to fulfil the intention expressed in its Declaration of 19 May 2006 by organising, as quickly as possible, an initial annual tripartite meeting between representatives of the Committee of Ministers, the Parliamentary Assembly and the Commissioner in order to promote stronger interaction with regard to the execution of Court judgments;

1.4. provide support for national human rights structures, particularly by taking prompt action on the Wise Persons' suggestion that a recommendation be drafted calling for the recognition of formal human rights powers for national ombudsmen and equivalent bodies.

C. Explanatory memorandum
by Mr Jean-Charles Gardetto, Rapporteur

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I. Introduction

1. On 23 January 2006, the Bureau submitted the motion set out in Doc. 10681 to the Committee on Legal Affairs and Human Rights for report (Reference No 3160). The Committee then appointed me as Rapporteur on 12 March 2007 (in place of the former Rapporteur, Mr Arabadjiev, who had left the delegation).

2. In preparation of this report, the Committee held an exchange of views with Mr Hammarberg, the current Council of Europe Commissioner for Human Rights, on 15 September 2006 at its meeting in Naphlion (Greece)¹.

3. Later, the Rapporteur met Mr Hammarberg on a bilateral basis on 18 April 2007 (during the 2nd part-session of the Parliamentary Assembly).

¹ The discussions which took place at this meeting are recorded in the minutes of the meeting.

4. The Rapporteur was thus able to discuss certain points with the Commissioner in greater depth.
5. It is partly thanks to these discussions that I am now in a position to present this report.

i. Background

6. Following the tenure of the first Council of Europe Commissioner for Human Rights (hereafter “the Commissioner”) and at a time when new aspirations are being expressed, this would seem to be an appropriate moment to look back at the institution’s first six years of operation.

7. The Assembly, which has been a regular participant in the discussions about the Commissioner’s terms of reference², has accordingly decided to take a closer interest in the review of the Office’s performance to date, and its prospects for the future.

8. Set up in 1999, after the 2nd Council of Europe Summit of Heads of State and Government on 10 and 11 October 1997 in Strasbourg³, the Human Rights Commissioner is a relatively new institution yet one which has already established itself as a key part of the human rights protection system in Greater Europe. As pointed out by Mr Juncker, “*Although his work is still in its infancy, the Commissioner has succeeded in winning the respect of all the Council’s member states*”⁴.

9. Commissioner Alvaro Gil-Robles obviously had the difficult task of being the first person ever to hold the post, but he also enjoyed a privileged position when it came to interpreting his mandate. His understanding of this mandate, the manner in which he exercised his powers and the practical achievements and implications arising therefrom have been instrumental in placing this new institution on a sound, long-term footing.

10. The Commissioner’s Office is still in the early stages of its work. It can and must acquire more experience and develop further so that it can really come into its own. The input that will be provided by the current Commissioner, Thomas Hammarberg, and his successors is bound to make for a richer, broader range of practice, giving the institution greater authority and independence.

11. At present, the prospects for widening the mandate set out in Protocol No 14 to the European Convention on Human Rights (hereafter “the Convention”), in the Juncker report⁵ and in the Group of Wise Persons report⁶ are a testament to the confidence and credibility which the institution enjoys.

ii. Interpreting the terms of reference

12. In keeping with the approach advocated in Recommendation 1640 (2004)⁷ according to which the Assembly “*appreciates the dynamic interpretation of the Commissioner’s terms of reference (...)*”, the report will examine the strengths and weaknesses of the Commissioner’s Office, with a view to suggesting ways of optimising its potential. It will thus endeavour to ascertain which areas of the institution are currently giving satisfaction, in which areas improvements appear to be needed and how this could be accomplished.

II. Functions and achievements

i. Mandate

13. According to Article 1 of Committee of Ministers Resolution (99) 50, the Commissioner “*shall be a non-judicial institution to promote education in, awareness of and respect for human rights, as embodied in the human rights instruments of the Council of Europe*”. Article 2 requires the Commissioner to function independently and impartially.

² See Opinion No 210 (1999) on the Council of Europe Commissioner for Human Rights: draft terms of reference, 29.01.1999; see also Recommendation 1640 (2004) on the 3rd Annual Report on the Activities of the Council of Europe Commissioner for Human Rights (1 January - 31 December 2002), adopted on 26.01.2004.

³ See the Declaration and the Action Plan adopted at the 2nd Summit; see also Committee of Ministers Resolution (99) 50 on the Council of Europe Commissioner for Human Rights.

⁴ Council of Europe – European Union: “A sole ambition for the European continent”, report by Jean-Claude Juncker, Prime Minister of the Grand Duchy of Luxembourg, for the attention of the Heads of State or Government of the Member States of the Council of Europe, 11.04.2006.

⁵ *ibid.*

⁶ Report of the Group of Wise Persons to the Committee of Ministers, 15.11.2006.

⁷ on the 3rd Annual Report on the Activities of the Council of Europe Commissioner for Human Rights (1 January – 31 December 2002).

14. His task is principally to foster the effective observance of human rights and to assist member states in implementing Council of Europe standards⁸. He accordingly promotes education in and awareness of human rights in Council of Europe member states; endeavours to identify possible shortcomings in the law and practice concerning human rights; facilitates the activities of national ombudsmen and other institutions in the field of human rights; and provides advice and information on the protection of human rights⁹.

15. The Commissioner's terms of reference are broadly drafted, therefore. The Parliamentary Assembly has in the past expressed its desire to make various changes to the Commissioner's mandate¹⁰ but these plans have met with resistance from the parties concerned¹¹. Far from acting as a constraint, the broad nature of the Commissioner's mandate has provided the kind of flexibility and adaptability that his office requires.

16. A more precise definition might be needed in the future, however, as the sheer breadth of the Commissioner's remit could ultimately prove to be a barrier to effective action, preventing him from focusing on certain, more specific activities. No doubt, too, a clearer definition of the terms of reference would help optimise the use of the Commissioner's resources.

17. While it is the Rapporteur's view that the Commissioner's mandate will need to be redefined in the future, he feels that for now, any such move would be premature. To try to determine what the Commissioner's main priorities should be on the basis of the stock-taking of the term of office of only one Commissioner is hardly reasonable. A more sensible option would be to wait and see what further lessons can be learned from a second Commissioner's period in office. The Rapporteur will therefore endeavour to highlight various identifiable trends at this stage in the second Commissioner's tenure and to suggest ways of adjusting his mandate without restricting them.

ii. Working methods

18. Over the years, the Commissioner has focused on three types of activities which in themselves amount to an extremely ambitious programme:

- dialogue with governments and country visits;
- thematic recommendations and awareness-raising;
- promoting the development of national human rights structures.

19. The official visits are very important for the Commissioner, as they enable him to assess local realities while at the same time entering into contact with national authorities and representatives of civil society.

20. A cycle of general evaluation missions has been established, with the Commissioner travelling, for example, to Germany and Ukraine in 2006. The Commissioner also makes shorter contact visits¹², and conducts "special missions" to tackle particularly sensitive issues. Thus, in November 2006, the Commissioner visited Slovenia to look into a highly contentious case involving the eviction of members of the Roma community¹³. He also travelled to Bosnia and Herzegovina in December 2006 to explore possible solutions to the controversial issue of the "decertification" of police officers by the United Nations¹⁴.

21. The Commissioner's visits, and his contacts with national ombudsmen and NHRIs¹⁵ (referred to in the Commissioner's terms of reference as "national human rights structures" or "NHRs") have led him to identify certain thematic issues which appear to pose a problem in various countries or which require more

⁸ In his annual activity report 2006, the Commissioner said he was "determined that his work should now focus on the *implementation* of human rights standards", see CommDH(2007)3, 11.04.2007, § 2.1.

⁹ See Article 3 of Resolution (99) 50; the reader is also referred to the highly instructive Final Report of Mr Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, which describes the Commissioner's main activities (CommDH(2006)17, 29.03. 2006).

¹⁰ See Recommendation 1640 (2004) on the 3rd Annual Report on the Activities of the Council of Europe Commissioner for Human Rights (1 January - 31 December 2002), adopted on 26.01.2004.

¹¹ See the Committee of Ministers' reply to Recommendation 1640 (2004), Doc 11039, 02.10.2006 (in particular paragraph 7).

¹² In 2006, Mr Hammarberg carried out contact visits to Hungary, Azerbaijan, Turkey, Georgia and Armenia.

¹³ See the Commissioner's letter to the Prime Minister of the Republic of Slovenia, dated 22.11.2006, "*The situation of the Roma community in Ambrus*", CommDH(2006)22.

¹⁴ See the Commissioner's Statement to the press on this subject.

¹⁵ National Human Rights Institutions.

attention in order to ensure more effective application of Europe-wide standards. These issues will receive priority attention from the Commissioner in the years ahead.

22. The nine themes singled out by the Commissioner are listed in his [annual activity report 2006](#)¹⁶: rights of women, rights of the child, human rights and terrorism, measures against xenophobia, rights of migrants, Roma rights, rights of persons with disabilities, LGBT rights¹⁷ and prison conditions.

23. As regards awareness-raising, the Commissioner organises and takes part in seminars, conferences and round tables¹⁸.

24. Commissioner Thomas Hammarberg has also initiated a series of fortnightly "[Viewpoints](#)", published on his website, in which he takes a clear stance on topical human rights issues.

iii. Achievements

25. It is difficult to say how much impact the Commissioner's work actually has but a number of practical examples testify to the credibility which the institution enjoys in member states and to the major progress made as a result of the Commissioner's efforts.

26. The agreement concluded in Bosnia and Herzegovina over police officers' complaints of unfair dismissal by the UN International Police Task Force (IPTF) is a recent example of the institution's success. After several visits by the Commissioner to Bosnia and Herzegovina and then New York to talk with members of the UN Security Council, an agreement was finally reached at the end of April 2007¹⁹.

27. Other instances where the Commissioner has been able to make a positive contribution include the following²⁰:

- Bulgaria: adoption of a code of conduct for the police in an effort to improve compliance with fundamental rights by police officers;
- Finland: institution of an Ombudsman for Minorities;
- Portugal: reforms introduced to the Code of Criminal Procedure reducing the maximum time-limits for pre-trial detention, increasing the possibility of contesting continued detention on remand and tightening the criteria for its application;
- Czech Republic: closure of the Balkova detention centre for irregular migrants and asylum seekers (late 2005);
- Slovakia: creation of an ombudsman institution, etc.

III. New prospects for enhancing the Commissioner's role

i. Within the Council of Europe

28. The new competences which it is proposed to assign the Commissioner are an indication of his growing role within the Council of Europe's human rights machinery. The changes introduced by Protocol No 14 to the Convention and the proposals contained in the recent Group of Wise Persons report highlight, *inter*

¹⁶ CommDH(2007)3, 11.04.2007,

[http://wcd.coe.int/ViewDoc.jsp?Ref=CommDH\(2007\)3&Language=lanEnglish&Ver=original&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679](http://wcd.coe.int/ViewDoc.jsp?Ref=CommDH(2007)3&Language=lanEnglish&Ver=original&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679)

¹⁷ Lesbian, Gay, Bisexual and Transgendered people.

¹⁸ In 2006, the Commissioner organised or co-organised the following events:

- Round table entitled "Dialogue, tolerance and education: the concerted action of the Council of Europe and the religious communities" (22-23.02.2006, Kazan, Russian Federation, organised by the Human Rights Commissioner, Mr Alvaro Gil-Robles);
- Exchange of views on national action plans for human rights (organised with the Steering Committee for Human Rights, 24.10.2006, Strasbourg);
- Workshop on "Protecting migrants' human rights" (8.11.2006, Strasbourg);
- Colloquy on "Protecting and supporting human rights defenders in Europe", held with the Council of Europe's Directorate of Human Rights on 13-14.11.2006, Strasbourg.

¹⁹ For further information on this issue, see the Commissioner's press release - 250(2007):

Hammarberg in Sarajevo: "solution for banned police officers now possible".

²⁰ A more comprehensive list can be found in the Directorate General of Human Rights document "Practical impact of the Council of Europe human rights mechanisms in improving respect for human rights in member states" available at: http://www.coe.int/t/1/droits_de_l'homme/hinf_2007_2_en.pdf, April 2007, pp. 22-23.

alia, the key role that the Commissioner could be called on to play in the future of the European Court of Human Rights (hereafter “the Court”).

- **Protocol No 14 and the Commissioner’s right of third-party intervention before the Court**

29. With a view to protecting the general interest more effectively, Article 13 of Protocol No 14 introduces a new provision which for the first time mentions the Commissioner in the Convention text by formally providing that the Commissioner has the right to intervene before the Court as a third party. A new paragraph 3 has accordingly been inserted at the end of Article 36 of the Convention: “*In all cases before a Chamber or the Grand Chamber, the Council of Europe Commissioner for Human Rights may submit written comments and take part in hearings*”²¹.

30. It is already possible for the President of the Court, on his or her own initiative or upon request, to invite “*any person concerned*”, including the Commissioner, to submit written comments or take part in hearings²². This right has been exercised only once in relation to the Commissioner, in the case of *Ilascu and others v. Moldova and Russia*²³.

31. The Commissioner’s practical experience and knowledge may help enlighten the Court on certain questions, particularly in cases which highlight structural or systemic weaknesses in the States Parties to the Convention.

32. The practical methods of this intervention must be determined and applied in a manner which is compatible with the explicit prohibition of a judicial role contained in the Resolution instituting the Office of the Commissioner²⁴. Under his terms of reference, the Commissioner is supposed to act only in cases involving systemic problems and where general measures need to be taken by member states. The Rapporteur also welcomes the Commissioner’s promise to make public the criteria which will guide his third party interventions before the Court²⁵.

33. Although it is not specifically envisaged, the Commissioner’s role in drafting and, in particular, monitoring the implementation of the Court’s “pilot judgments” could also prove crucial, as the Commissioner has access to information that might be of relevance to the Court²⁶. This idea has been mentioned in detail on several occasions by the Commissioner, who believes that he could “*with the assistance of NHRSSs, [...] assist the Court in identifying cases that should give rise to a pilot judgment, in defining the domestic measures required by the execution of a judgment in such a pilot case and in understanding the difficulties preventing national authorities from taking such measures*”²⁷ – and deserves to be supported by the Assembly²⁸.

²¹ See the text of Protocol No 14 and also the Explanatory report.

²² Article 36§2 of the ECHR “The President of the Court may, in the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings”.

²³ Application No. 48787/99.

²⁴ Resolution (99) 50; in this regard, the Commissioner believes “that it is possible to apply this provision in a manner which is compatible with the explicit prohibition of judicial role contained in his mandate”, see CommDH/Omb-NHRI(2007)1 Rev 3, p. 7.

²⁵ See the background paper on ‘Effective Protection of Human Rights in Europe: Enhanced Co-operation between the Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights’ (CommDH/Omb-NHRI(2007)1 Rev 3, 03.04.2007) prepared for the 10th Round Table of European Ombudsmen and the Council of Europe Commissioner for Human Rights, Athens, 12-13.04.2007, p. 7.

²⁶ See in this context “Ombudsmen and NHRIs as indirect sources of information for the European Court of Human Rights via the Commissioner for Human Rights”, by Manuel Lezertua, Director, Office of the Commissioner for Human Rights, Athens, 12.04.2007.

²⁷ See for example the speech by Mr Thomas Hammarberg, Commissioner for Human Rights, on “Alternative or complementary means of resolving disputes and other issues broached in the Wise Persons’ report”; Colloquy “The future of the European Court of Human Rights in the light of the Wise Persons’ Report”, San Marino, 22-23.03.2007 (CommDH/Speech(2007)4); the background paper on “Effective Protection of Human Rights in Europe: enhanced co-operation between Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights” (CommDH/Omb-NHRI(2007)1 Rev 3, 03.04.2007), §§ 38, aforementioned, and also proposal no. 8 in the list of Practical measures for implementing effective protection of human rights in Europe: enhanced co-operation between ombudsmen, national human rights institutions and the Council of Europe Commissioner for Human Rights (CommDH/Omb NHRI(2007)7, 02.04.2007); see also the comments by T. Hammarberg, Commissioner for Human Rights, on the interim report by the Group of Wise Persons, 12.06.2006, CommDH(2006)18, §§12-14.

²⁸ See also the background paper on “Effective Protection of Human Rights in Europe: Enhanced Co-operation between Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights” (CommDH/Omb-NHRI(2007)1 Rev 3, 03.04.2007), § 32, aforementioned.

34. Finally, the Assembly should invite the Commissioner to control the implementation by member states of their obligation to co-operate with the Court, as has already been recommended by our colleague Mr Pourgourides.²⁹

- ***Extension of the Commissioner's duties in the interest of the Court***

35. The recent report produced by the Group of Wise Persons³⁰ for the Committee of Ministers on the long-term effectiveness of the ECHR control mechanism calls for the Commissioner's duties to be extended, in order to develop alternative or complementary means of resolving disputes and so reduce the Court's workload.

36. The Commissioner, in co-operation with the NHRs could help to identify or eliminate any practices liable to trigger applications to the domestic courts and, eventually, the Strasbourg Court³¹.

37. Similarly, national ombudsmen, in co-operation with the Commissioner, could inform the public about the Court's mandate and competence and about the admissibility criteria contained in the Convention, thereby helping to reduce the number of manifestly inadmissible applications filed with the Court.

38. The Group of Wise Persons likewise wishes to promote mediation and, in this context, the Commissioner has pointed out that NHRs can also be of significant assistance in reaching friendly settlements. He has further said that he is willing to advise the national ombudsmen involved in these procedures in order to ensure that they are fair and in keeping with Convention standards³². The Rapporteur is in favour of this highly constructive approach.

39. As in the case of third-party intervention, this Group of Wise Persons proposal merits further consideration, in particular as regards the practical details of the Commissioner's and NHRs' intervention³³. Although certainly in favour of the Group of Wise Persons' proposals, the Court has made it clear that "*Any extension of the Commissioner's role in the Convention system must be strictly delineated*"³⁴.

- ***A greater role in monitoring the execution of Court judgments***³⁵

40. The Group of Wise Persons considers that "*in particular, the Commissioner should respond actively to the announcement of Court decisions finding serious violations of human rights*"³⁶.

41. Certainly when it comes to monitoring the execution of judgments, the Commissioner and the NHRs are well placed to inform the Court and the Committee of Ministers as to whether or not practices or situations declared in breach of the Convention by the Court persist or have actually been stopped. The Commissioner, indeed, has even said that: "*There can be no better implementation of this proposal than co-operating with NHRs*"³⁷. The Commissioner is already planning pilot projects on the subject in some countries in co-operation with NHRs³⁸.

²⁹ See the draft resolution presented in the report by Mr Pourgourides, Member states' duty to co-operate with the European Court of Human Rights, Doc. 11183.

³⁰ Report of the Group of Wise Persons of 15.11.2006, §§ 109 to 113.

³¹ § 113 of the Report of the Group of Wise Persons.

³² See the speech made on 23.03.2007 by Thomas Hammarberg, Commissioner for Human Rights, on "Alternative or complementary means of resolving disputes and other issues broached in the Wise Persons' Report"; Colloquy "The Future of the European Court of Human Rights in the light of the Wise Persons' Report", San Marino, 22-23.03.2007.

³³ See the memorandum for the attention of the Bureau of the Assembly from Ms Bemelmans-Videc on the report of the Group of Wise Persons, AS/Jur (2007) 25 (public document), in which the Rapporteur expresses the view that "The exact manner in which the Human Rights Commissioner can play a more active role – perhaps as a "facilitator" - in the Convention's control system, including in the execution of the Court's judgments, needs to be carefully assessed in the context of the institution's present mandate (Committee of Ministers Resolution R(99)50) and the Commissioner's likely more pro-active role upon the entry into force of Protocol No 14, ECHR (see Article 13 of Protocol 14 and §§ 86-89 of the protocol's Explanatory Report)."

³⁴ Opinion of the Court on the Wise Persons' Report, as adopted by the Plenary Court on 02.04.2007, point 9.

³⁵ See on the general issue of the implementation of Court judgments Parliamentary Assembly Resolution 1516 (2006) and Recommendation 1764 (2006), together with Doc. 11020.

³⁶ §110 of the Wise Persons' Report.

³⁷ See the speech made on 23.03.2007 by Thomas Hammarberg, Commissioner for Human Rights, on "Alternative or complementary means of resolving disputes and other issues broached in the Wise Persons' Report"; Colloquy "The Future of the European Court of Human Rights in the light of the Wise Persons' Report" San Marino, 22-23.03.2007.

³⁸ See "Conclusions of the round table and perspectives", 20.06.2007, § 24.

42. Specifically, the structural problem identified by the Court should become a priority in the dialogue between the state concerned and the Commissioner, who can then suggest ways of remedying the problem or evaluate the solutions proposed at national level.

43. Such assistance from the Commissioner may seem all the more appropriate now that Protocol No 14 introduces the possibility of bringing a case against states which refuse to abide by the Court's judgments³⁹.

44. Co-operation between the Committee of Ministers and the Commissioner in this area is institutionalised in Committee of Ministers Resolution (2004) 3⁴⁰, in which the Court is invited to identify, in its judgments, any underlying systemic problems and to notify these judgments not only to the states concerned but also to the Committee of Ministers, the Commissioner and the Parliamentary Assembly.

45. Furthermore, in its Declaration of 19 May 2006 on sustained action to ensure the effectiveness of the implementation of the European Convention on Human Rights at national and European levels, the Committee of Ministers said it wished to "*initiate annual tripartite meetings between representatives of the Committee of Ministers, the Parliamentary Assembly and the Commissioner for Human Rights to promote stronger interaction with regard to the execution of judgments*"⁴¹.

46. The Rapporteur is in favour of these initiatives and proposals and hopes that they will soon be implemented.

47. The Rapporteur is also interested to note the Commissioner's proposal to extend his activities in monitoring the execution of judgments by adopting "*a proactive approach in triggering verification procedures to assess the compatibility of draft laws, existing laws and administrative practices with the ECHR standards as they emerge from the Court's case law*"⁴² in keeping with Committee of Ministers Recommendations (2004) 5 and (2004) 6.

48. Clearly, there is a strong case for such a move and the Rapporteur supports it. In effect, the efforts made to assess the compatibility of legislation with the Convention are apt to reduce the number of cases that come before the Court and so ultimately improve the effectiveness of the ECHR control mechanism. Although the Commissioner has given opinions on various laws in the past⁴³, any extension of this competence would presumably require additional resources, however.

49. Mindful of the need for realism and pragmatism in the current constrained budgetary environment, the Rapporteur wishes to call upon the Commissioner and the other bodies of the Council of Europe to work in close synergy and in a complementary manner, notably with the European Commission for Democracy through Law (Venice Commission), which produces a large number of opinions on constitutions and legislation⁴⁴.

³⁹ Article 16 of Protocol No. 14 introduces the possibility of bringing an action for failure to comply in the new §§ 4 and 5 of Article 46 – Binding force and execution of judgments:

4. "If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.

5. If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph 1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case".

⁴⁰ on judgments revealing an underlying systemic problem.

⁴¹ § X c) of the declaration of 19.05.2006.

⁴² See the speech made on 23.03.2007 by Thomas Hammarberg, Commissioner for Human Rights, on "Alternative or complementary means of resolving disputes and other issues broached in the Wise Persons' Report", aforementioned; Article 8 of the Commissioner's terms of reference authorises him to issue opinions.

⁴³ The Commissioner has already submitted opinions on various laws. See, for example, his opinion on certain aspects of the proposal by the Government of Finland for a new Aliens Act, CommDH(2003)13.

⁴⁴ For further information, see the Venice Commission website:

http://www.venice.coe.int/site/dynamics/N_calendar_ef.asp?L=E&MenuL=E .

ii. Outside the Council of Europe

50. At the Warsaw Summit on 17 May 2006, heads of state and government of Council of Europe member states entrusted Jean-Claude Juncker with the task of preparing a report on relations between the Council of Europe and the European Union (EU)⁴⁵.

51. Part of this report is devoted to the Commissioner for Human Rights and envisages "*the explicit introduction of machinery which would allow the EU to apply to the Commissioner*". Such machinery would deal with human rights issues, affecting Council of Europe member states, which were not covered by the existing monitoring and control procedures. It would be open to the EU institutions and to all Council of Europe member states.

52. Looking ahead to the establishment of the new European Fundamental Rights Agency, the Juncker report envisages the Commissioner being involved in its work. It accordingly considers that "*It would also be useful if the Commissioner were mentioned in the Statute as an essential partner of the agency, and could be involved, in a non-consultative capacity, in the work of its managing bodies*"⁴⁶. The Rapporteur wishes to draw the attention of the Council of Europe bodies, including the Parliamentary Assembly, to the practical difficulties of implementing this proposal (for further details, see § 99 below).

53. The considerable expectations placed on the Commissioner, for example by the Group of Wise Persons and the Juncker report, are a testament to the confidence and credibility that his office enjoys. In his annual activity report 2006, however, the Commissioner warned that these expectations would need to be lowered in view of "*the rather scarce resources put at the disposal of the Commissioner and the Council of Europe as a whole*".

IV. Strengths to be built on

i. Commissioner's independence and impartiality

54. The Commissioner's independence and impartiality are absolutely crucial for the credibility and effectiveness of an institution whose mission is to identify shortcomings in the law and practice of member states with regard to human rights. It is imperative that the Commissioner be afforded all the necessary safeguards in this respect.

55. Any attempt to change the non-renewable nature of the Commissioner's mandate is liable to render him vulnerable to unacceptable political and diplomatic deal-making.

56. The Rapporteur wholly endorses Commissioner Hammarberg's view that "*The impartiality and independence of the Commissioner must be carefully protected*"⁴⁷ and agrees with him about the need to respect fully not only the Commissioner's independence but also that of his partners⁴⁸.

57. Two specific aspects of the management of the Commissioner's Office were highlighted by Commissioner Alvaro Gil-Robles as a potential barrier to his independence: the procedures for allocating his budget and for appointing members of his team⁴⁹. These issues were also raised in the Rapporteur's interview with the current Commissioner.

58. The Rapporteur welcomes the fact that the Commissioner is now in a position to present the Secretary General with a preliminary draft annual budget for the operation of his Office⁵⁰.

59. The Rapporteur is of the opinion that the Commissioner should be able to make proposals for his own budget et choose his own team, and calls on the authorities of the Council of Europe to continue to take the Commissioner's opinion into account with regard to the management of his Office.

⁴⁵ Council of Europe – European Union "A sole ambition for the European continent", report by Jean-Claude Juncker, Prime Minister of the Grand Duchy of Luxembourg, for the attention of the Heads of State or Government of the Member States of the Council of Europe, 11.04.2006.

⁴⁶ Aforementioned.

⁴⁷ Activity report 2006, CommDH(2007)3, 11.04.2007, § 2.1.

⁴⁸ See the speech made on 23.03.2007 by Thomas Hammarberg, Commissioner for Human Rights, on "Alternative or complementary means of resolving disputes and other issues broached in the Wise Persons' Report", aforementioned.

⁴⁹ Opinion of the Commissioner for Human Rights, Alvaro Gil-Robles, on Parliamentary Assembly Recommendation 1640 (2004), 18.12.2004.

⁵⁰ *ibid.*

ii. Further development of the instruments available to the Commissioner

60. As Commissioner Gil-Robles made very clear at the end of his mandate, the Commissioner has a large number of instruments at his disposal whose potential has by no means been fully exploited⁵¹, often because of a lack of resources.

61. The option of making *ad hoc* recommendations on a given issue in a given country or region has been exercised only twice⁵². The Rapporteur considers that such recommendations are an entirely appropriate, flexible means of responding promptly to topical issues. The Assembly should encourage the current and future Commissioners to use them more often.

62. Producing more thematic reports would seem to be another essential aspect of the Commissioner's work.

63. Broadly speaking, there should be closer monitoring to ensure that the Commissioner's recommendations are actually implemented. Such monitoring could be carried out with the help of other Council of Europe bodies and in particular the Parliamentary Assembly (see paragraph 117).

iii. Forging closer links with civil society and human rights defenders

64. Representatives of civil society organisations are key partners of the Commissioner and in his annual activity report 2006, he noted that "*A vibrant civil society is a cornerstone for a society based on human rights*"⁵³.

65. It is worth noting here that when making his evaluation visits, the Commissioner usually begins by meeting with representatives of civil society, as part of his Office's success lies in the subtle combination of a direct presence on the ground, in touch with reality, and access to the highest levels of government.

66. The Commissioner also works with human rights defenders and endeavours to give them protection and support. To this end, a colloquy on "Protecting and supporting human rights defenders" was held in November 2006⁵⁴ to look at the problems facing human rights defenders and find ways of resolving them. In the course of the colloquy, the Commissioner spoke of the "invaluable role" played by human rights defenders, including individuals, groups and non-governmental organisations (NGOs), and of states' obligation to protect human rights defenders and their work and to create conditions that enable them to fully perform their role⁵⁵. Indeed, the Commissioner has been encouraged to consolidate the role and the competence of his Office with a view to creating an effective mechanism for the protection of human rights defenders in cases of emergency.⁵⁶

iv. Co-operation with national human rights structures

67. Co-operation between the Commissioner and national human rights structures is specifically mentioned in the Resolution instituting the Office of Commissioner⁵⁷. Article 3c accordingly states that "*When dealing with the public, the Commissioner shall, wherever possible, make use of and co-operate with human rights structures in the member States. Where such structures do not exist, the Commissioner will encourage their establishment*". Under Article 3d, the Commissioner is required to "*facilitate the activities of national ombudsmen or similar institutions in the field of human rights*". Finally, under Article 5, "*The Commissioner*

⁵¹ See his Final Report, CommDH(2006)17, 29.03.2006, p. 10.

⁵² With regard to the allegations of involuntary sterilisation in the Slovak Republic and arrest and detention procedures in Chechnya.

⁵³ Aforementioned.

⁵⁴ Council of Europe colloquy held by the Commissioner for Human Rights and the Directorate General of Human Rights (13-14.11.2006).

⁵⁵ See the Commissioner's conclusions concerning the colloquy "Protecting and supporting human rights defenders", 13-14.11.2006; see also the document produced by the Commissioner's Office on "The practice of the Commissioner for Human Rights on human rights defenders" CommDH(2007)5 / 13.04.2007; see also the Commissioner's viewpoint "Human Rights Defenders must be able to criticise", 13.11.2006.

⁵⁶ See the Report of Mr. Pourgourides on the State of Human Rights in Europe, Doc. 11202, § 42. The Committee on Legal Affairs and Human Rights is currently preparing a report on "the situation of human rights defenders in Council of Europe member states" (Rapporteur: Holger Haibach) and will have the opportunity to examine this issue in more depth (see Doc 10985), taking into account the conclusions of the Group of Specialists on human rights defenders (DH-S-DDH).

⁵⁷ Resolution (99) 50 of the Committee of Ministers.

may act on any information relevant to the Commissioner's functions. This will notably include information addressed to the Commissioner by governments, national parliaments, national ombudsmen or similar institutions in the field of human rights, individuals and organisations" (emphasis added).

68. From the outset, the Commissioner has sought to forge close contacts with ombudsmen and national institutions which promote and protect human rights. In practical terms, this means systematically meeting with such structures during field visits, coming to the defence of any NHRs subjected to undue political pressure within their respective countries and holding biannual round tables to encourage the sharing of experience and information⁵⁸.

69. The importance of these meetings and exchanges has been underscored on several occasions by the Commissioners and Mr Hammarberg is anxious now to step up and extend this co-operation⁵⁹. The drafting of the Wise Persons' report, which shows the potentially crucial role for NHRs in preserving the long-term effectiveness of the Court system, provided the opportunity for the launch of a broad debate on the guiding principles of this co-operation, and what it involves.

70. A questionnaire for the ombudsmen and NHRs was compiled by the European Section of the International Ombudsman Institute (IOI)⁶⁰ after the Vienna conference in June 2006 and discussions were held with ombudsmen and NHRs on the various avenues proposed⁶¹.

71. The 10th round table of European ombudsmen and the Council of Europe Commissioner for Human Rights, with the special participation of NHRs in Athens (12-13 April 2007) was the final stage in this debate and marks the start of a new phase of co-operation for implementing human rights standards in member states. Practical measures, in the form of eleven proposals, were discussed and the Commissioner described them in his conclusions as "*a large inventory of possible co-operation activities, which, at some point or another, might be carried out with one or several National Human Rights Structures*"⁶²:

- create focal points within NHRs to organise co-operation, in liaison with a specialised unit for work with NHRs, in the Commissioner's Office;
- provide NHRs with thematic information on specific human rights issues;
- inform NHRs of any human rights concerns expressed in the Council of Europe regarding their countries, including cases pending against their country before the Court and the European Committee of Social Rights, as well as Court judgments to be executed;
- inform NHRs in cases where the Commissioner envisages intervening before the Court;
- NHRs to help their authorities on their territories to take the necessary action to execute Court judgments and to inform the Commissioner of progress made thereon or of any difficulties encountered;
- NHRs to inform the Commissioner of any systemic human rights concerns as they arise in their countries but also of any positive developments;
- Commissioner to organise workshops on specific human rights issues for the personnel of NHRs.

72. Several countries have expressed a desire to take part in pilot projects involving specific cases, among them Austria, Belgium, Hungary and France.

73. It is important to note here that some countries do not have an ombudsman yet and that in others, even though the institution exists, it has no formal powers to deal with the rights enshrined in the Convention. The Wise Persons' report draws attention to this problem and adds that the Committee of Ministers might consider adopting a recommendation with the aim of assigning such competence to them⁶³. Although the Commissioner argues, in the Conclusions to the Athens Round Table meeting, that the lack of any specific

⁵⁸ Prior to the establishment of the Commissioner's Office and up until 2003, the round tables referred to in Resolutions (85)8 and (97)11 on the Council of Europe's co-operation with ombudsmen and NHRs respectively were organised by the Directorate General of Human Rights.

⁵⁹ See the comments by Mr Thomas Hammarberg, Commissioner for Human Rights, on the interim report of the Group of Wise Persons to the Committee of Ministers, CommDH(2006)18, 12.06.2006. He notes in particular that involving NHRs in the effort to preserve the long-term effectiveness of the ECHR gives full effect to the principle of subsidiarity when implementing the Convention.

⁶⁰ A synopsis of the answers to this questionnaire is available.

⁶¹ See for example the 4th Round Table of European National Institutions for the Promotion and Protection of Human Rights and the Council of Europe Commissioner for Human Rights, Athens, 27-28.09.2006.

⁶² See "Conclusions of the round table and perspectives", 20.06.2007. A list of the 11 proposals can be found in the document "Effective protection of human rights in Europe: enhanced co-operation between Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights – practical measures for implementation: 11 proposals"; see also the background paper.

⁶³ § 111 of the Report of the Group of Wise Persons.

reference to human rights in the terms of reference of NHRs does not necessarily prevent their co-operation with his activities from being stepped up⁶⁴, the Rapporteur is vigorously in favour of the Wise Persons' proposal and would like to see it taken a step further, with the creation of specialised ombudsman institutions, eg to protect children's rights⁶⁵.

74. In some countries, although the institution exists and is competent to deal with human rights, it lacks the necessary resources to be able to exercise its powers effectively. In the conclusions to the Athens Round Table meeting, the Commissioner states clearly that the efficiency of his Office's co-operation with the NHRs depends on the NHRs being given sufficient human and financial resources to put this co-operation into practice⁶⁶.

75. In order to ensure the effectiveness of NHRs, the Assembly should make it clear that it is imperative that all member states possess an ombudsman's office which is independent, competent to deal with human rights matters and effectively able to perform its task (in other words, one which is granted the necessary human and financial resources by the state).

76. The Commissioner has also had occasion to reiterate the need to respect fully the independence of ombudsmen. This applies not only to national authorities but also to the Council of Europe, including the Commissioner himself. Thus, although the law empowers ombudsmen to take action on human rights issues, the decision to intervene and the manner of the intervention are a matter for each individual ombudsman⁶⁷.

77. As regards NHRs, the Commissioner and the UN High Commissioner for Human Rights recently decided to step up their efforts to encourage the setting-up of national human rights institutions compliant with the Paris Principles⁶⁸ in those Council of Europe member states where they do not already exist. Such was the background to the JOIN Project (Joint Operations for Independent National Institutions for the Promotion and Protection of Human Rights). The Assembly is expected to support this initiative.

v. Interaction with other Council of Europe bodies

78. The Commissioner must not act alone but rather in partnership with the Council of Europe bodies. These synergies are essential for ensuring consistency in the Council's activities and also optimum use of potential and resources. It is vital that there should be no duplication or competition.

79. Article 1§2 of the Resolution instituting the Office of Commissioner states that "*The Commissioner shall respect the competence of, and perform functions other than those fulfilled by, the supervisory bodies set up under the European Convention of Human Rights or under other human rights instruments of the Council of Europe. The Commissioner shall not take up individual complaints*".

80. The Commissioner's role complements that of the other control mechanisms, so maintaining active co-ordination and ongoing dialogue is vital.

- Committee of Ministers

81. The Commissioner keeps the Committee of Ministers informed of his activities and recommendations so that these can be incorporated in the Organisation's programme of activities. The Committee of Ministers also receives the main evaluation reports and thematic reports produced by the Commissioner.

82. In his 2006 annual report and when presenting it to the Committee of Ministers, the Commissioner did, however, say that he wished to "*exchange views with the Committee of Ministers on a more regular basis so that he can profit from the insights of its members who represent collectively the governments of all member states of the Council of Europe*"⁶⁹.

⁶⁴ See "Conclusions of the round table and perspectives", 20.06.2007.

⁶⁵ See Parliamentary Assembly Resolution 1530 (2007), § 15.2 and Doc 11118; see also in this context Parliamentary Assembly Recommendation 1778 (2007).

⁶⁶ See "Conclusions of the round table and perspectives", 20.06.2007.

⁶⁷ Comments by Mr Thomas Hammarberg, Commissioner for Human Rights, on the interim report of the Group of Wise Persons to the Committee of Ministers, CommDH(2006)18, 12.06.2006.

⁶⁸ These principles set out the main criteria for an NHRI, namely independence, competence and effectiveness (UN General Assembly Resolution 48/134).

⁶⁹ Annual activity report 2006, aforementioned.

83. Another area where co-operation with the Committee of Ministers could be stepped up is the execution of Court judgments, as mentioned earlier. The Declaration of the Committee of Ministers of 19 May 2006 on sustained action to ensure the effectiveness of the implementation of the European Convention on Human Rights at national and European levels is a welcome development that now needs to be translated into concrete action and pursued further.

- **Parliamentary Assembly** (See section VI)
- **Congress of Local and Regional Authorities**

84. According to the Commissioner, "*The pivotal role of local authorities in implementing human rights standards has often been overlooked*"⁷⁰. With this in mind, the Commissioner is forging closer contacts with local and regional authorities during his visits to member states and through his participation in the Congress of Local and Regional Authorities, in particular the Congress Plenary in May 2006.

85. Turning to the question of enhancing the role of NHRSs in particular, the Commissioner, in cooperation with the Congress, has taken the initiative of organising an initial round table with regional ombudsmen who also have an important role to play in monitoring the observance of human rights by local authorities⁷¹.

- **European Court of Human Rights**

86. As has already been mentioned, the Commissioner's role vis-à-vis the Court is to be extended shortly with the entry into force of Protocol No 14 and proposals contained in the Wise Persons' Report concerning the long-term effectiveness of the Court.

87. Conversely, the Court will also have to provide the Commissioner with more information to enable him to identify any structural problems that might arise in individual cases and to ensure that Court judgments are executed.

88. For now, the Court is reserving judgment on the extension of the Commissioner's duties mentioned in the Wise Persons' Report, mainly because the latter is insufficiently detailed⁷².

89. Practical procedures for co-operation will need to be introduced to ensure value-enhancing synergies between these two key institutions in the Council of Europe's system of human rights protection.

- **European Commission against Racism and Intolerance (ECRI), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), European Committee of Social Rights (ECSR)**

90. ECRI, like the CPT or the ECSR, complements the role of the Human Rights Commissioner. One of its main tasks is to promote all Council of Europe instruments concerned with human rights, while the other mechanisms cover more specific fields.

91. The Commissioner also deals with areas which these institutions are unable to cover. The issue of discrimination on grounds of sexual orientation, for example, currently falls outside ECRI's remit, contrary to the wishes of the Parliamentary Assembly⁷³. When called on by the Committee of Ministers to respond to this recommendation, ECRI observed that "*its own resources are at present very limited and already insufficient for it to cover its current field of activities*"⁷⁴. The Commissioner, who was also consulted, considered, for his part, that "*the problem of discrimination on grounds of sexual orientation was already fully covered by his mandate and sufficiently important to be an integral part of the work of his office as a whole rather than being reserved for a specific appointment*"⁷⁵.

⁷⁰ *Ibid.*

⁷¹ See the background paper "Effective Protection of Human Rights in Europe: Enhanced Co-operation between the Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights" 03.04.2007.

⁷² See § 99 below.

⁷³ See Recommendation 1474 (2000) on the situation of lesbians and gays in Council of Europe member states.

⁷⁴ Declaration contained in the CM's reply to Recommendation 1474 (2000) CM/AS(2001)Rec1474 / 19.09.2001.

⁷⁵ *Ibid.*

92. The Commissioner can thus draw on the specialised expertise of the various Council of Europe bodies, particularly when preparing visits to member states, and contacts have been established to allow an ongoing exchange of information.

93. This communication between the different sectors of the Council needs to be maintained or even enhanced as it is vital in order to ensure the consistency of the Council of Europe's human rights protection system as a whole. It would be extremely damaging if the various institutions were to adopt different stances on particular issues.

- European Commission for Democracy through Law (Venice Commission)

94. The Rapporteur is convinced that the work of the Venice Commission may be of considerable importance to the work of the Commissioner. As indicated in paragraph 49, he invites the Commissioner to seek the best possible co-ordination with this institution, notably in the context of the preparation of opinions on constitutions and legislation currently in force or in the drafting phase. The Rapporteur invites the Commissioner to reflect on the possibility of referring matters to the Venice Commission in situations where the latter may be better placed to give an opinion.

95. The Rapporteur suggests that, in addition to merely exchanging information, the activities of the Commissioner's Office should be rationalised and coordinated with those, in particular, of the Court, the Venice Commission, the CPT, ECRI and the ECSR. He believes that, on subjects of joint concern, with a view to enhancing mutual activities, consideration could be given to inviting members of the secretariats of other relevant sectors of the organisation to join his delegation when he is visiting member states, and vice-versa.

vi. Co-operation with other intergovernmental institutions

96. Another core aspect of the Commissioner's work is co-operation with non-Council of Europe institutions. Given that the Commissioner has similar concerns to other international organisations and only limited resources, establishing good working relations is essential.

97. His main partners here are the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE) and the United Nations (UN).

98. Co-operation with the EU institutions is particularly important, the idea being to generate synergies on human rights issues between the Council of Europe and the EU and to avoid duplication. The Commissioner maintains close relations with the Personal Representative on Human Rights and the European Ombudsman, both of whom he met on several occasions in 2006⁷⁶.

99. The recent setting-up of the European Fundamental Rights Agency, which began work on 1 March 2007, has sparked concern about the possible emergence of two competing human rights systems in Europe⁷⁷. Under the terms of the Memorandum of Understanding signed on 23 May 2007, "*The concrete co-operation between the Council of Europe and the Agency will be the subject of a bilateral co-operation agreement between the Council of Europe and the Community*"⁷⁸.

100. It remains to be determined what role the Commissioner should play vis-à-vis this new Agency. The Juncker report expresses the hope that he will be an "*essential partner*", but the Commissioner's limited resources and the need for him to remain independent mean that an in-depth study and more concrete proposals are required.

101. Within the OSCE, which covers human rights issues as part of its human dimension activities, the Commissioner deals mainly with the Director of the Office for Democratic Institutions and Human Rights (ODIHR). A focal point for human rights defenders and a contact point for NHRIs are being set up within the OSCE. The Commissioner is taking a keen interest in these activities, which tie in closely with his own current concerns.

⁷⁶ See the Commissioner's Annual activity report 2006.

⁷⁷ See for example Parliamentary Assembly Resolution 1427 (2005).

⁷⁸ See the full text of the Memorandum of Understanding:

[http://wcd.coe.int/ViewDoc.jsp?Ref=CM\(2007\)74&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](http://wcd.coe.int/ViewDoc.jsp?Ref=CM(2007)74&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)

102. The Commissioner is also following with interest the activities of the Human Rights Council and the Office of the UN High Commissioner for Human Rights. In his 2006 annual report, the Commissioner refers in particular to a suggestion made by some stakeholders in the Human Rights Council that in addition to the human rights assessments produced by United Nations bodies, the evaluation process should also take into account the human rights assessments and analyses produced by other intergovernmental organisations, including the Council of Europe.

103. The Commissioner also met with several special procedures mandate holders including the Special Representative of the Secretary General on the situation of human rights defenders, the Special Rapporteur on torture, the Special Rapporteur on the promotion and protection of human rights while countering terrorism, etc.⁷⁹

V. Improvements needed for the continued performance of the Commissioner's task

i. The crucial question of the Commissioner's resources

104. The issue of the resources allocated to the Commissioner's Office is crucial in any discussion about its future. Both Alvaro Gil-Robles and Thomas Hammarberg have repeatedly expressed deep concern on this point, aware that the viability and credibility of the institution depend on it.

105. As far back as 2004, in Recommendation 1640 (2004), the Assembly recommended that the Committee of Ministers endow the Commissioner's office with the additional resources needed to enable his office to cope with its heavy work programme and drew the Committee of Ministers' particular attention to the special need for predictability and stability in the resources made available to the Office of the Commissioner. These recommendations remain totally relevant today. In view of the Human Rights Commissioner's extremely important role amongst the bodies of the Council of Europe, and the priority nature of his actions which are related to the Council of Europe's core values, as reaffirmed on the occasion of the 3rd Summit of Heads of State and Government, namely the respect for human rights, it is fundamental and imperative that the Committee of Ministers endow the Commissioner with the material and human resources necessary to carry out his mission.

106. The Commissioner's annual activity report 2006 states that following the priority attached to the Commissioner's institution at the Warsaw Summit of Heads of State and Government in 2005, the regular budget for 2006 increased to 1,639,600 euros in 2006 (as against 956,800 and 1,179,600 euros for 2004 and 2005 respectively). These resources were not enough, however, to cover the operational budget and once again, the Commissioner had to rely on voluntary contributions from individual member states⁸⁰.

107. Another cause for concern is understaffing. There are currently 13 permanent posts and 12 temporary posts in the Commissioner's Office, plus three members of staff on secondment from the Governments of Finland, Turkey and Ireland. It is estimated that approximately 30 permanent staff members are needed to improve the capacity to continuously monitor human rights, notably by setting up country desks in the Commissioner's Office to collect and analyse human rights information on every member state, in line with the Commissioner's wishes.

108. The new competences assigned to the Commissioner likewise call for extra resources. For example, in order to be able to fully exercise his new powers of intervention before the Court, the Commissioner will most certainly need additional qualified staff. For the explanatory report relating to Protocol No 14 states that the Commissioner will not be systematically informed of decisions declaring applications admissible and will therefore have to "seek this information him- or herself", by determining with the Court the arrangements for access to the said information which will allow him to intervene in the relevant cases⁸¹.

109. The Juncker report also mentions the need to give the Commissioner more resources and proposes that he be authorised to submit his own budget proposals. As regards EU funding, it states that "*A voluntary,*

⁷⁹ See the Annual activity report 2006 for a detailed list.

⁸⁰ The Annual activity report 2006 cites the voluntary contributions from Cyprus, Finland, Greece, Ireland, Liechtenstein, Luxembourg, Monaco, Poland, the Russian Federation, Spain and the United Kingdom. In addition, the representative of the Commissioner's Office in the Office of the Chechen Ombudsman in Grozny was partially funded under a Joint Council of Europe and European Commission Programme.

It is important to emphasise that these contributions do not in any way affect the Commissioner's independence and impartiality. No instructions are received from states.

⁸¹ § 88 of the Explanatory Report.

*no-strings-attached contribution to his Office by the EU should also be seriously considered*⁸². The Rapporteur supports this proposal, although it will need to be fleshed out. He encourages the Commissioner's Office and the European Commission to think about the practicalities of such a contribution and determine precisely what form it might take.

110. Given the position that the Commissioner now holds in the Council of Europe's human rights machinery and the importance of what he does, it is unacceptable that his Office should be undermined by a chronic lack of resources that prevents it from realising its full potential. The Assembly, then, must reiterate the need to provide the Commissioner with appropriate resources so that he can perform his task in peace, in the most efficient manner possible.

ii. Need for increased monitoring and presence on the ground

111. It is important that the Commissioner acquire the ability to ensure ongoing monitoring of human rights in all the member states. At present, the work carried out by the Commissioner's Office is too sporadic and communication with states between visits by the Commissioner is not sufficiently sustained.

112. The aim is to eventually set up country desks in the Commissioner's Office to collect and analyse human rights information on every member state.

113. An increased presence on the ground is also crucial. The ideal solution would be to have a representative in each member state. According to the Juncker report, the Council's member states should propose the secondment of independent national human rights experts chosen by the Commissioner, to reinforce his services⁸³.

114. There is another option which could be considered in parallel. The Commissioner could ensure proper monitoring of the situation in a large number of member states if he had staff in the field, working out of the Council of Europe Offices. These individuals could be recruited locally and would be dedicated solely to the Commissioner's work in a particular country. The problem is that at present there is not a Council of Europe office in each member state. The setting up of such an office in each member state should be seriously considered.

VI. Interaction between the Parliamentary Assembly and the Commissioner

115. The Commissioner is elected by the Assembly, thereby conferring democratic legitimacy on him, and Articles 3 and 4 of Resolution (99) 50 go on to set out the basis for the relationship between the Commissioner and the Assembly⁸⁴.

116. The Assembly played an active role in drafting the Commissioner's terms of reference and then took specific steps and proposed practical measures designed to provide political support to the Commissioner's work and enhance the capacities of his Office⁸⁵.

117. In its newly adopted Recommendation 1791 (2007) on the state of human rights and democracy in Europe, the Assembly reiterated its support for the Commissioner's work, recommending that the Committee of Ministers "*strengthen also its political support for the institution of the Commissioner for Human Rights of the Council of Europe by placing all the necessary means at its disposal, thus enabling it to effectively carry out its mandate*"⁸⁶.

⁸² Council of Europe – European Union: "A sole ambition for the European continent", report by Jean-Claude Juncker, Prime Minister of the Grand Duchy of Luxembourg, for the attention of the Heads of State or Government of the Member States of the Council of Europe, 11.04.2006.

⁸³ *Ibid.*

⁸⁴ The Commissioner is called upon to:

- address, whenever the Commissioner deems it appropriate, a report concerning a specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers;
- respond, in the manner the Commissioner deems appropriate, to requests made by the Committee of Ministers or the Parliamentary Assembly, in the context of their task of ensuring compliance with the human rights standards of the Council of Europe;
- submit an annual report to the Parliamentary Assembly;
- take into account views expressed by the Parliamentary Assembly concerning the Commissioner's activities.

⁸⁵ See Opinion No. 210 (1999) on the Council of Europe Commissioner for Human Rights: draft terms of reference, 29.01.1999. See also Recommendation 1640 (2004) on the 3rd Annual Report on the Activities of the Council of Europe Commissioner for Human Rights (1 January-31 December 2002), adopted on 26.01.2004.

⁸⁶ Recommendation 1791 (2007) on the state of human rights and democracy in Europe adopted on 18.04.2007, §2.7.

118. In the event that the Commissioner should require political support and additional backing to promote his recommendations, the Assembly should be able to assist. For it is essential that the Commissioner's recommendations be complied with and that his opinions carry authority. In its Recommendation 1640 (2004), the Assembly recommended that the Committee of Ministers "*include in its monitoring activities the follow-up of the recommendations addressed to member states by the Commissioner*". This proposal is still relevant today but it is also important that the Assembly look at ways of providing the Commissioner with more consistent political support.

119. The Rapporteur wishes to point out that the idea is not to have merely formal information sharing but to carry on developing a constructive exchange that will make the Commissioner's work more effective⁸⁷.

120. The Assembly should accordingly refer more often to the Commissioner's conclusions in its work. It might also be helpful for both sides if the Assembly were to respond on a regular basis to the Commissioner's annual report, so as to give its opinion on the substance of the report and on the proposals contained therein. This response could also provide an opportunity to look at the various activities where there has been co-operation with the Commissioner.

121. Furthermore, where member states persistently disregard the Commissioner's recommendations, a system whereby the Commissioner can refer the matter to the Assembly could be introduced in order to bring pressure in the national parliaments concerned. Such institutional co-operation should naturally be effected in such a way as to preserve the independence and impartiality of the Commissioner's Office.

122. In this context, the Rapporteur believes that the Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe (Monitoring Committee) enjoys a key position and should transmit the Commissioner's recommendations. The Rapporteur therefore invites the Monitoring Committee to take on the Commissioner's recommendations and to integrate them *de facto* into the list of commitments which it monitors regularly. He also invites the Commissioner and the Monitoring Committee to coordinate their work, exchange information, associate members of the Commissioner's Office with missions of the Committee, and members of the Committee's secretariat with missions of the Commissioner, and generate synergies between them.

123. National parliaments have an important role to play in promoting education in and awareness of human rights, an aspect of the Commissioner's work that needs to be developed further. One method favoured by the Commissioner today is to have each country's parliament draft a national action plan for human rights in co-operation with the national governments of that country. The Assembly should encourage the drawing up of plans of this kind.

124. While the Assembly can assist the Commissioner in his work, the Commissioner can also play an important role by conducting investigations and giving advice in cases where the Assembly requires that these advisory investigations are conducted by an impartial body, free from any political involvement⁸⁸.

125. The NHRs can also provide important information to the Parliamentary Assembly and carry out follow-up to its work. To give a recent example, the NHRIs have spoken of themselves as having a potential follow-up role on the question of rendition flights and secret prisons organised by the CIA, a matter discussed by the Parliamentary Assembly⁸⁹. To that end, the Assembly should also support the Commissioner in his efforts to promote NHRs and to improve their co-operation with Council of Europe institutions in general and the Commissioner in particular.

126. The Commissioner, for his part, has noted on several occasions that the Assembly is a key partner. He is now a regular speaker at parliamentary sessions.

⁸⁷ A similar wish was expressed by Commissioner Gil-Robles at the end of his mandate: "The potential of such an institution should be exploited and not underestimated, or, simply, ignored. For this it is necessary to improve the mechanisms for co-ordination and the transmission of information. This co-ordination must not, however, be conceived as requiring the integration of the Commissioner into pre-determined activity, nor the transmission of information as an obligation on the Commissioner alone that need not be reciprocated by others." Final Report, CommDH(2006)17, 29.03.2006, p. 7.

⁸⁸ At the request of the Parliamentary Assembly, Commissioner Alvaro Gil-Robles visited Kosovo, Serbia and its neighbouring countries in 2002 to examine respect for human rights in Kosovo and the situation of displaced persons, see the Final Report, CommDH(2006)17, 29.03.2006, p. 9.

⁸⁹ See the conclusions "Athens Declaration 2006" of the 4th Round Table of European National Institutions for the Promotion and Protection of Human Rights and the Council of Europe Commissioner for Human Rights, Athens, 27-28.09.2006.

127. In his speech to the Assembly on 18 April 2007, in a debate on human rights and democracy in Europe, the Commissioner said that members of the Assembly had a particularly important catalysing role in the human rights field⁹⁰.

128. The synergies that have gradually developed between the Commissioner and the Assembly need to be maintained but also developed further, particularly when it comes to translating the Commissioner's recommendations into concrete action.

VII. Conclusions and recommendations

129. In the light of the foregoing, the Rapporteur considers that the institution of Commissioner is making brisk and steadfast progress and that this should be welcomed. The hopes placed in the Commissioner are considerable but, unfortunately, the resources at his disposal are largely insufficient.

130. The independence of the institution is its great strength, and the Rapporteur must emphasise how crucial it is for it to be safeguarded and respected unreservedly.

131. In the draft resolution, the Rapporteur asks the Assembly to encourage and support the Commissioner in continuing to expand his activities in the areas in which he can clearly make a highly beneficial contribution. In general, the Rapporteur also encourages the Commissioner to continue to look for potential areas of interaction with other Council of Europe bodies out of a constant concern to avoid duplicating similar work carried out by other sectors of the organisation.

⁹⁰ Within the framework of this debate, and with the support of the President of the Parliamentary Assembly, the Commissioner for Human Rights brought together leading representatives of the human rights community for a roundtable discussion on how to improve the protection and promotion of human rights in Europe. The conference was attended by representatives of NGOs and international organisations active in the human rights field (Council of Europe, the European Union, the OSCE and the UN).

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: Doc 10681, Reference No 3160 of 23 January 2006; Doc 10573, Reference No 3190 of 17 March 2006

Draft resolution and draft recommendation adopted unanimously by the Committee on 11 September 2007

Members of the Committee: Mr Dick **Marty** (Chairperson), Mr Erik **Jurgens**, Mr György **Frun**da, Mrs Herta **Däubler-Gmelin** (Vice-Chairpersons), Mr Athanasios Alevras, Mr Miguel Arias, Mrs Aneliya Atanasova, Mr Abdülkadir Ateş, Mr Jaume **Bartumeu Cassany**, Mrs Meritxell Batet, Mrs Soledad Becerril, Mrs Marie-Louise **Bemelmans-Videc**, Mr Erol Aslan **Cebeci**, Mrs Pia Christmas-Møller, Mrs Ingrida **Circene**, Mrs Alma Čolo, Mrs Lydie **Err**, Mr Valeriy Fedorov, Mr Aniello Formisano, Mr Jean-Charles **Gardetto**, Mr József Gedei, Mr Stef Goris, Mr Valery Grebennikov, Mrs Carina Hägg, Mr Holger Haibach, Mrs Gultakin **Hajiyeva**, Mrs Karin Hakl, Mr Nick Harvey (alternate: Mr Christopher **Chope**), Mr Andres **Herke**l, Mr Serhiy **Holovaty**, Mr Michel Hunault, Mr Rafael Huseynov, Mrs Fatme Ilyaz, Mr Kastriot Islami, Mr Želiko **Ivanji**, Mrs Kateřina Jacques, Mr Karol Karski, Mr Hans Kaufmann (alternate: Mr Andreas **Gross**), Mr András Kelemen, Mrs Kateřina **Konečná**, Mr Nikolay Kovalev (alternate: Mr Yuri **Sharandin**), Mr Jean-Pierre Kucheida, Mr Eduard **Kukan**, Mrs Darja Lavtižar-Bebler, Mr Andrzej Lepper, Mrs Sabine **Leutheusser-Schnarrenberger**, Mr Tony Lloyd, Mr Humfrey Malins (alternate: Lord John **Tomlinson**), Mr Andrija Mandic, Mr Pietro **Marcenaro**, Mr Alberto Martins, Mr Andrew McIntosh, Mr Murat **Mercan**, Mrs Ilinka **Mitreva**, Mr Philippe Monfils, Mr João Bosco **Mota Amaral**, Mr Philippe Nachbar, Mrs Nino Nakashidzé, Mr Fritz Neugebauer, Mr Tomislav Nikolić, Ms Ann Ormonde (alternate: Mr Paschal **Mooney**), Mr Claudio Podeschi, Mr Ivan Popescu, Mrs Maria Postoico, Mrs Marietta de Pourbaix-Lundin, Mr Christos **Pourgourides**, Mr Jeffrey Pullicino Orlando, Mr Valeriy Pysarenko, Mr François Rochebloine, Mr Francesco Saverio Romano, Mr Armen **Rustamyan**, Mr Kimmo **Sasi**, Mr Ellert **Schram**, Mr Christoph Strässer, Mr Mihai Tudose, Mr Vasile Ioan Dănuț **Ungureanu**, Mr Øyvind **Vaksdal**, Mr Egidijus **Vareikis**, Mr Miltiadis Varvitsiotis, Mrs Renate Wohlwend, Mr Marco Zacchera, Mr Krysztof Zaremba, Mr Vladimir Zhirinovsky, Mr Miomir Žužul

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the Committee: Mr Drzemczewski, Mr Schirmer, Mrs Maffucci-Hugel, Ms Heurtin