

# THE COUNCIL OF EUROPE

## LESS CAN BE MORE

No. 33, October 2003

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## Foreword

On 7 January 2003, the Minister of Foreign Affairs asked the Advisory Council on International Affairs (AIV) to produce an advisory report on the present and future role of the Council of Europe in preparation for the Dutch Chairmanship from November 2003 to April 2004. The request for an advisory report (see Annexe I) began by outlining the main developments since the Council of Europe was set up in 1949 and identifying a number of important policy areas in addition to human rights and the rule of law. It also discussed the importance of the Council of Europe as a pan-European consultative body and its role in monitoring compliance with the accession criteria by new member states and application of the *acquis* by existing member states. Referring to the sometimes overlapping fields of activity of the Council of Europe, the European Union (EU) and the Organisation for Security and Cooperation in Europe (OSCE), the letter also emphasised the need to ensure that the enlargement of the EU would not create new dividing lines within the Council between EU member states and non-member states. In the light of the foregoing, the AIV was requested to answer the following questions:

- What is the precise strength and added value of the Council of Europe in relation to the OSCE and the EU?
- Is the Council of Europe a binding factor within or outside the European Union, and is there a new role for it beyond the current borders of a 'Wider Europe'?

Chapter I of the report discusses the Council of Europe's original goals and tasks, how it currently sees its tasks, and the problems it now faces. Chapter II examines a number of future options for the Council. Chapter III looks more closely at one of these options, namely focusing on core tasks.<sup>1</sup> Chapter IV goes on to discuss cooperation between the Council of Europe and other European organisations. Finally, Chapter V contains conclusions and recommendations. The report also refers to a number of annexes, which appear after the final chapter.

The report was prepared by a specially appointed subcommittee comprising members from every section of the AIV. The members of the subcommittee were Professor D.M. Curtin, T. Ety, Professor C. Flinterman, Professor W.J.M. van Genugten (chair), Professor J.E. Goldschmidt and C. Hak, all members of the AIV's Human Rights Committee (CMR), Professor P.J.G. Kapteyn and H.C. Posthumus Meyjes of the AIV's European Integration Committee (CEI) and E.M.A. Schmitz of the AIV. Dr A. Bloed of the AIV's Peace and Security Committee (CVV) was mainly involved as a corresponding member.

In drawing up the report the subcommittee was very fortunate to be able to take advantage of the extensive knowledge and experience of Mr Piet Dankert, a member of the CEI. Sadly, he did not live to see the report completed. The AIV learned of his death with great regret.

1 In this report the AIV uses the term 'core tasks', which does not appear in the Statute of the Council of Europe but is discussed in greater detail in Chapter III.

The subcommittee conducted a number of interviews in the Netherlands. The AIV is particularly grateful to P.J.M. Hartog and Professor H.D.C. Roskam Abbing of the Ministry of Health, Welfare and Sport and to M.J.E. Beuk and M.D. Engelkes-Heeringa of the Ministry of Education, Culture and Science. On 8 and 9 September 2003, members of the subcommittee also visited Strasbourg to learn more about how the Council of Europe is regarded there. Their interviews with representatives of the Council (including the Chairmanship, the secretariat, the specialised directorates, the Committee of Ministers and the Parliamentary Assembly) and permanent representatives of various member states proved valuable, and the results are apparent throughout the report. A list of those interviewed in Strasbourg can be found in Annexe II. The AIV is extremely grateful to the entire staff of the Dutch Permanent Representation in Strasbourg for their assistance in preparing and conducting the visit. Finally, the AIV is grateful for the input and information provided by the Ministry of Foreign Affairs, especially P. Post of the Economic Cooperation Department/Interregional and Regional Organisations Division (DES/IR) and R.A.A. Böcker and J. Schukking of the Legal Affairs Department/International Law Division (DJZ/IR). The secretariat consisted of T.D.J. Oostenbrink (secretary of the CMR) and trainees C. van der Sanden, J.L.E. Bakels and J.P. Denkers.

The AIV finalised this report on 3 October 2003.

# I Introduction

## *The Council of Europe's goals*

The idea of a united Europe existed even before the Second World War. The horrors of the war merely strengthened the conviction that Europe must reinforce its identity and capacity for self-defence. A Congress of prominent Europeans met in The Hague from 7 to 10 May 1948 to discuss the political, economic and cultural aspects of European unity. This meeting led to the drafting of the Statute of the Council of Europe, which was adopted in London on 5 May 1949. Although delegates to the Hague Congress had been in favour of more extensive cooperation, the founders of the Council of Europe decided it should simply be an intergovernmental organisation.

The original goal of the Council of Europe was to contribute, as a regional organisation within the meaning of Chapter VIII of the UN Charter, to the solution of postwar problems and the development of structural European cooperation in order to prevent calamities such as the Second World War. Article 1, paragraph a, of the Statute of the Council reads: 'The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress.' The Statute goes on to state that this aim will be pursued 'by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms' (Article 1, paragraph b). Apparently just to be on the safe side, paragraph d of the same Article 1 adds that 'matters relating to national defence' do not fall within the scope of the Council of Europe.

Policy documents from later years were to specify the Council's aims more closely in such terms as stimulating the cultural identity and diversity of Europe; finding solutions to problems in European society such as discrimination against minorities, xenophobia, intolerance, environmental problems, AIDS, drug addiction and organised crime; and contributing to stable democracy in Europe by supporting political, legislative and constitutional reforms.<sup>2</sup>

Among other things, the member states (which now number 45) are required to 'accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms' (Article 3 of the Statute). States wishing to qualify for membership of the Council of Europe must ratify the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) no later than one year after joining the organisation. They thereby guarantee the rights of all persons within their jurisdiction, and not just those of their own citizens (Article 1 of the ECHR). The *acquis* of the Council currently also includes numerous protocols to the ECHR, the European Social Charter (ESC) and a large number of the more than 190 treaties that the Council has drawn up (for a list of these, see Annexe VIII). Such treaties, which are enforced by specialised bodies such as the European Court of Human Rights, the European Committee for the Prevention of Torture and Inhuman or

2 See *inter alia* Council of Europe, 'Activities of the Council of Europe, 2001 Report', Strasbourg, March 2003 and 'Human Rights Reference Handbook', Ministry of Foreign Affairs, The Hague, 1999, pp. 107-136.

Degrading Treatment or Punishment (CPT), the Congress of Local and Regional Authorities of Europe (CLRAE), the ESC Committee of Independent Experts and the European Commission against Racism and Intolerance (ECRI), make clear what the Council of Europe's fundamental goals are and what standards its member states are expected to meet (see also Annexe III for an organisation chart).

#### *How the Council of Europe currently sees its tasks*

Although the Council of Europe's goals may at first sight seem quite clear, they include a number of concepts that can be interpreted in various ways. Examples include the phrases 'discussion of questions of common concern' and 'common action in economic, social, cultural, scientific, legal and administrative matters' (Article 1 of the Statute, quoted above). Such phrases illustrate that from the very beginning the door has in a sense been open to much more than what the Council is globally respected for, namely protection of human rights.<sup>3</sup> Even if the concept of 'human rights' is interpreted broadly to include the causes of human rights violations and the pursuit of non-legal ways to prevent and redress them, it is clear that the Council of Europe has had a broad mandate from the very outset.

This mandate is currently implemented through a series of activities in what, in a nutshell, may be described as the field of human rights and the rule of law. At first sight these are clearly demarcated fields, but in practice the Council of Europe applies an extremely broad definition of the rule of law in order to pursue a wide range of activities in the fields of social cohesion and development, minorities and minority languages, public health, education, culture, the media, sport, youth and the environment (for the extent of the Council's related activities, see Annexe IV).<sup>4</sup> Within the Council there is also a constant exchange of experience and views between experts from member states which, owing to the experience gained and the almost pan-European nature of the consultations, contributes to the adoption of positions on various matters within the European Union. Were it not for this, certain issues that need to be discussed – issues that often extend beyond the field of human rights and the rule of law – might never even be raised. Moreover, membership of the Council of Europe was long seen – and in some member states is still seen – as a political antechamber to membership of the European Union (examples being Bulgaria, Croatia and Moldova). This has also created a framework for consultations and discussions which non-EU members of the Council would otherwise scarcely, if ever, be involved in. Another important aspect is that many non-governmental organisations (NGOs) operating in the fields covered by the Council of Europe can take advantage of their consultative status to take part in the dialogue.

The Council of Europe is based on three pillars: substance, players and instruments.

1. As regards the substance of the Council's tasks, the cornerstones are:

- individual human rights;
- democracy and the rule of law;

3 See footnote 1. Although in practice the main focus of the Council's work is still on civil and political rights, it has increasingly concerned itself with economic, social and cultural rights.

4 For the definitions used, see for example Council of Europe, 'Building Europe together on the rule of law', Directorate-General of Legal Affairs, Strasbourg, January 2003. For more limited definitions, see Advisory Council on Government Policy (WRR), 'De sociale rechtsstaat voorbij: twee onderwerpen voor het huis van de rechtsstaat', V116, p. 38, SDU, The Hague, 2002 and Clingendael, 'Monitoring the rule of law', Consolidated Framework and Report, The Hague, July 2002.

- social cohesion.

These three topics constitute the core of the Council's work. The interaction between them is also important, as it provides a framework for assessing the role of the Council.

2. The main players are the Council's own institutions. However, the member states and the Council also interact closely at all kinds of levels with NGOs and other civil-society organisations.
3. The instruments available to the Council of Europe are:
  - peremptory law and enforceable judgments under the ECHR
  - 'soft law' and monitoring;
  - exchange of expertise.

If these pillars are combined and/or superimposed in various ways, the Council's structure becomes apparent. If its actual activities are considered in their entirety and the more specific function of the European Court of Human Rights is disregarded for a moment, it will be seen not only that the Council of Europe operates in an extremely varied range of fields, but also that it has done, and is still doing, a great of useful work. In this connection, the often informal manner of consultation and access to the member states' combined expertise are major assets. The main drawbacks are lack of public visibility and interest, and lack of focus. During the 1970s and 1980s this caused the Council of Europe to fade increasingly into the background and show signs of diminishing vitality. All this changed dramatically after 1989, when the countries of Central and Eastern Europe cast off the Soviet yoke and the Council of Europe began to play a highly welcome and positive role in helping them restore democracy, establish the rule of law and ensure respect for human and minority rights. This gave the Council of Europe a new lease of life, based on its original goals. In the countries concerned the Council acquired a significance that it had long since lost among its existing member states. The question is how long this effect will persist as more and more of these countries become integrated into the European Union. Whatever the answer, what is certain is that the Council of Europe will be called upon to carry out vital work for many years to come.

#### *Problems now facing the Council of Europe*

Yet, however valuable the Council's work may be, it is clear that for a number of years it has been under increasing pressure owing to a series of developments and problems some of which originate outside the Council but some of which are the fault of its own member states. These include the following:

- As more and more states have become members of all three European international organisations (the Council of Europe, the EU and the OSCE), and as a result of their shared fundamental values, a welter of overlapping organisational structures and activities has gradually arisen (for a list of the three organisations' goals, tasks and powers, see Annexe V). One immediate effect is that the Council of Europe is now somewhat overshadowed by the other two organisations and that its whole *raison d'être*, like that of the OSCE, is increasingly called into question.
- The 'old' member states – which are also members of the European Union – are less interested in the Council of Europe than they used to be. This has undermined the Council's image and authority.
- After 1993 the Council admitted a number of countries whose legislation did not at the time satisfy the accession criteria.<sup>5</sup> In a number of cases political considerations

<sup>5</sup> Countries often mentioned in this connection are Azerbaijan, Armenia, Ukraine and the Russian Federation.



outweighed formal membership requirements. This has proved a serious threat to the Council's values and credibility, now that a number of member states have turned out to be barely capable of putting those values into practice. Another result is that the European Court of Human Rights has been swamped with applications and now has a heavier workload than ever. The question of how to deal with member states that 'underperform' – for example by suspending or even expelling them – has dominated a good many discussions within the Council and paralysed much of its work.

- The greatly changed circumstances since 1989 and the subsequent accession of many new members have created new opportunities for both the new democracies and the Council itself. In the countries concerned, Council membership and involvement have brought about major changes in thinking about, and compliance with, the Council's values. In a sense this has helped them 'acclimatise' through exchange of expertise, and has boosted many countries' self-respect. At the same time, however, it has raised serious new problems which the Council cannot solve (at least in the short term) and perhaps should not even be trying to solve, given the division of tasks between it and the OSCE; examples include Russian involvement in Chechnya, the conflict in Nagorno-Karabakh and the wider conflict between Armenia and Azerbaijan.
- The Council of Europe has interpreted its original terms of reference very broadly indeed, and this has led to a substantial increase in its range of tasks in such fields as sport and youth. It has also resulted in a wide range of agreements, some of them codified in what are known as 'partial agreements': treaties to which member states can become party on a voluntary basis and for which they make additional payments over and above their regular contributions to the Council. On the one hand these activities appear to be a major incentive, especially for many new member states, to show their commitment to the European cause. On the other hand, they sometimes put considerable pressure on the functioning of the Council as a whole. The question of whether these activities, which some see as mere 'sweeteners', should continue to form part of the Council's work is usually linked to the question of whether the countries concerned, such as the Russian Federation and other Eastern European countries, might withdraw from the Council if these tasks were dropped, whereas the Council is especially keen to hold on to those member states that are unlikely to join the EU.
- There is not enough funding to carry out all the support programmes for new member states (zero budget growth). Funding priorities in such areas as field missions and field presence are an increasing bone of contention, even though the need for a visible Council presence in countries where it is operating is acknowledged by both Council staff and representatives of the member states concerned. Moreover, the member states that contribute the most funds have recently proposed drastic budget cuts. Both of these factors are already having an impact on many programmes and that impact may be even greater in the future, so that even core tasks such as the European Court of Human Rights may come under pressure.

## **II The future of the Council of Europe: three options**

The developments and problems listed here give ample grounds for reflecting on the future position and role of the Council of Europe. The AIV envisages three basic options.

The first option is to carry on as before. What this has proved to mean in practice is (a) a gradually broadening interpretation of the Council's mandate and work wherever this appears to be in keeping within a broad view of its original tasks, (b) closer cooperation between the various regional organisations and (c) further adaptation of the Council's institutional structure (the Committee of Ministers, the Parliamentary Assembly and the secretariat) to fit in with this mandate and this type of cooperation. The AIV sees this option as 'more of the same', which effectively means letting things drift and ignoring the problems perceived.

The second option (at the other end of the scale) is to consider long-term scenarios for integration, given the changing goals of the OSCE and the gradual enlargement of the Council of Europe and the EU (for a list of the three organisations' member states and the overlap between them, see Annexe VI). The AIV assumes here that there will probably always be an EU, which is unlikely in the short term to include every European country. Even after the forthcoming enlargement, the difference between the numbers of EU and Council of Europe member states will still be considerable.<sup>6</sup> The question is whether in the long term there will be room for more than one European organisation in addition to the EU (in this case the Council of Europe and the OSCE). In order to determine this, the strengths and weaknesses of the two organisations' institutional capacity, range of tasks and performance will need to be assessed. The AIV has pointed out this scenario by way of contrast, in order to indicate the avenues that may one day need to be explored, but does not believe it would be politically expedient to pursue the 'merger option' at this stage. Such integration would be part of a more general reorganisation of European institutions – an issue which the AIV believes will eventually become more pressing. However, should the Government wish to look at this more drastic scenario in greater detail, the AIV is prepared to examine it in the near future.

In between these two options is a third one which is definitely preferred by the AIV. This goes back to the field of activity in which the Council of Europe has traditionally excelled and for which it is universally respected, namely the maintenance and further realisation of human rights, the rule of law and democracy. This option recognises that in addition to the Council of Europe there is an OSCE which since the fall of the Berlin Wall has largely ceased to be bedevilled by East-West confrontation and, for this and other reasons, has been able to adjust its goals to present-day needs. This third option also acknowledges the forthcoming enlargement of the EU to a total of 25 member states. As a result, there will be an increasing overlap between the EU and the Council of Europe as regards both numbers of members and relevant areas of activity. All this leads the AIV to conclude that it would be a good thing if the Council of Europe were to focus on its core tasks. Cooperation with other organisations operating in the same

<sup>6</sup> After enlargement, the EU will have 25 member states. The Council of Europe already has 45, and Monaco and Belarus are also expected to join.

areas is of course advisable, provided it is more than just cooperation for its own sake. In other areas it will be necessary to examine which organisation is best suited to carry out which tasks and what forms of coordination and information exchange are most appropriate for this purpose. The focus must be on drawing up and carrying out the tasks that are the most pressing in the present circumstances, based on the original goals of the Council when it was first set up in 1949. These goals are as important as ever, and will become even more relevant as a result of the increasing changes taking place within the territory of the Council (especially the problems of the multicultural society and minorities). The AIV believes that by focusing on these core tasks, in the knowledge that there are two adjacent European organisations, the Council can make a valuable contribution to stability and the quality of law in European society.

### III Focusing on core tasks

In the AIV's view, the core tasks of the Council of Europe involve guaranteeing its member states' legal infrastructure, which is founded on generally accepted values and respect for diversity based (among other things) on the wishes and characteristics of national minorities. What exactly these core tasks are can be determined in one of two ways. The first is a systematic analysis of the activities that the Council of Europe currently sees as part of its range of tasks. The second is a less in-depth approach that involves identifying which activities the AIV sees as the Council's core tasks and suggesting, on the basis of a number of criteria, which ones are not. Given the Council's vastly expanded field of activity and the amount of time available, the AIV does not believe the first approach is feasible, and has therefore decided to opt for the second one.

In discussing the Council's core tasks, the AIV took into account the pillars of the Council's mandate, its current strengths and the overlap between its activities and those of other organisations, as well as the notion that in times of scarcity every organisation must impose limits on itself and concentrate on fulfilling its core mandate as effectively as possible. The AIV believes that the Council's core tasks can be formulated as follows:

- (a) promotion of democracy (including assistance to 'new' member states);
- (b) promotion of the rule of law;
- (c) protection of human rights and protection against violations of the rights of individuals;
- (d) protection of minority rights; and
- (e) preservation and promotion of cultural values and diversity in the member states.

The following criteria can be used to determine what areas the Council of Europe should focus on in the future:

- Is there a direct and immediate link between the action that has been undertaken or envisaged and the stated core tasks?
- Is the action the result of agreed decisions, and is it necessary for the proper enforcement of the rules?
- Does the action that has been undertaken or envisaged offer any clear benefit in comparison with existing or foreseeable EU legislation, or with what has been or can be done in a UN or OSCE context?
- Can the action be expected to lead to practical implementation, i.e. does it have more than merely declaratory value?

The focus of existing activities should be on sharpening, maintaining and effectively applying the Council's unique monitoring mechanisms. In this connection the AIV emphasises that it does not wish to see the Council's core tasks pared down to the bare minimum, as though it should 'only' be concerned with the right of 800 million individuals to lodge applications with the European Court of Human Rights about human rights violations by their own governments. However, the AIV does recommend that the Council be very selective. Budgetary restrictions obviously necessitate making choices, but at the same time they should not stand in the way of choices aimed at carrying out a limited number of activities effectively.

### *Member states' own primary responsibility*

The main activities involved here are strengthening the legal infrastructure and organising public administration in the member states. The subsidiary, complementary nature of the Council of Europe and its legal arrangements, and of international law and international organisations in general, means that nation states must shoulder their own responsibilities. It is their task to ensure that there is an effective, independent judicial apparatus, that rights under the ECHR and the ESC are guaranteed, that all people within their jurisdiction have access to such things as education and health care and that they effectively protect their minorities and persons belonging to them. Significantly, the Council of Europe applies the principle that countries seeking to join must ensure that human and minority rights are 'up to standard' by the time they become eligible for membership. The Council is therefore prepared to offer them specific support programmes that will help them exceed the minimum standard.<sup>7</sup>

Here the AIV touches on the doctrine of the 'margin of appreciation', at the point of intersection between the duty of states to comply with the ECHR and the monitoring of compliance by the European Court of Human Rights: not every state need necessarily implement all the human rights standards laid down in the ECHR in a uniform manner, provided that the discrepancies remain within the permitted limits. These limits are supervised by the European Court of Human Rights and by the Parliamentary Assembly. Since this monitoring function of the European Court of Human Rights can only be activated by the individual right of petition – under the ECHR, unlike UN human rights treaties, there is no general obligation upon members of the Council of Europe to submit reports (except in the case of Article 52, which in practice is invoked only sparingly) – the Court can only supervise the limits of the margin of appreciation effectively if there is genuine access to the Court at national level. This, too, is a primary responsibility of the member states.

### *National-international interaction: ratification requirements*

The principle of subsidiarity and complementarity of international law and international organisations presupposes that nation states have their houses in order. Accordingly, states that are keen and willing to join an international organisation such as the Council of Europe must be party to at least all the Council's core treaties, without reservations that defeat their 'object and purpose' (see Article 18 of the Vienna Convention on the Law of Treaties).<sup>8</sup> Furthermore, they must conduct themselves in practice in a manner that may be expected of parties to treaties (*pacta sunt servanda*). In both respects – numbers of ratifications and conduct in accordance with the treaties – not only relatively new members of the Council but also certain older member states have failed to perform adequately.<sup>9</sup> The second of these aspects requires no further illustration – one need only consider the numerous applications to the European Court of

7 Examples include the training programmes offered to the judiciary, police and legislators under the auspices of the Venice Commission in countries including Moldova and the Russian Federation. See also Council of Europe, 'The Venice Commission in 2002, Annual Report of Activities', Strasbourg, June 2003.

8 In the light of the AIV's earlier comments on the Council of Europe's core tasks, these core conventions include the ECHR and the accompanying Protocols, the ESC and the Framework Convention for the Protection of National Minorities.

9 A large number of countries are involved, including not only Armenia, Croatia, Ukraine and the Russian Federation but also Italy, Greece and Turkey.

Human Rights even against certain founding members and the numerous occasions the Court has ruled against them. The first is illustrated by existing ratification lists. For example, various Protocols to the ECHR and other human rights treaties suffer from 'underratification'. Sometimes this concerns relatively minor but not insignificant issues, such as the fact that nearly all the member states have ratified the Sixth Protocol to the ECHR (1983, on the abolition of the death penalty) but that four have not (including the Russian Federation, which signed the Protocol in 1997). Another example is the Framework Convention for the Protection of National Minorities, which was opened for signature in 1995. By the end of May 2003 this had been ratified by 35 states and signed by a further seven, including the Netherlands. In other words, after eight years the Netherlands has still not ratified the Framework Convention.<sup>10</sup> A third example is the Revised European Social Charter, which was opened for signature in 1996. By the end of May 2003 this had been ratified by fifteen states and signed by a further seventeen; the Netherlands had done neither. A final example is the Twelfth Protocol to the ECHR (2000, introducing a general prohibition on discrimination), which cannot come into force until ten countries have ratified it; so far only five have done so.<sup>11</sup> The AIV recommends a critical examination of which member states are party to which of the more than 190 treaties. If only a few countries are found to be party to certain treaties, the Government can after some time, and as a first step towards rationalisation, consider whether the topics concerned should continue to be part of the Council's range of activities or whether (after very careful assessment) there is any other reason to shelve these obsolete conventions.<sup>12</sup>

The AIV also strongly urges the Government to do what leaders of international organisations constantly do, namely call on member states to ratify their organisation's core treaties, and above all to remember to set a good example.

#### *Monitoring compliance: the European Court of Human Rights*

The separation of powers, as expressed in the notion of the 'rule of law' (Article 3 of the Statute), demands that ratification of and compliance or non-compliance with treaties be monitored by independent third parties. This means that the task of monitoring compliance should not be assigned to political bodies (although they do have a part to play here) lest political considerations come to dominate the assessment of human rights practices in various states (double standards and an over-accommodating attitude towards countries that are fighting terrorist movements).

This brings the AIV to the core body responsible for monitoring compliance with the ECHR and its protocols: the European Court of Human Rights in Strasbourg. The AIV will not go into detail regarding the debate on the European Court of Human Rights, which has inevitably revived now that the 1998 revision (Eleventh Protocol) has failed to yield what was expected of it. It is clear that the Court is not equipped to do what it was set up to do, namely (besides its role in the development of law) offer additional

<sup>10</sup> The Senate of the States General has still not finished discussing the bill to approve the Framework Convention, as there are differing views regarding the definition of minorities. Political consultations are now taking place to find a solution that may allow the Convention to be ratified in the near future.

<sup>11</sup> The five are Bosnia and Herzegovina, Croatia, Cyprus, Georgia and San Marino.

<sup>12</sup> The 'shelving obsolete conventions' procedure used by the International Labour Organisation could also be applied here.

legal protection within a reasonable period of time to those who have stated before the Court that their fundamental rights have been violated. The number of newly submitted cases is known to exceed by about a thousand a month the number that are disposed of. The current debate is mainly about how to cease burdening the Court with matters that do not raise any essential questions as to the interpretation and application of the ECHR (the 'pick and choose' system) and the establishment of a special section of the Court to decide on inadmissibility. More generally, the debate is about the preservation of the additional legal protection function embodied in the individual right of petition and the price that may have to be paid for this.<sup>13</sup>

This debate, which it is hoped will lead to a comprehensive package of measures, is now taking place within the Committee of Ministers. Its basis is the final report on the subject by the Council of Europe's Steering Committee for Human Rights, which the Committee of Ministers has described as a 'coherent set of concrete proposals for guaranteeing the long-term effectiveness of the Court'.<sup>14</sup> At its 112th session (Strasbourg, 14-15 May 2003) the Committee of Ministers decided to draw up an amending protocol to the ECHR that will be submitted for adoption at its 114th session in 2004. In drawing up the protocol, the member states must bear in mind three proposals by the Steering Committee on the following matters:

- preventing violations at national level and improving domestic legal procedures;
- maximising the effectiveness of the filtering and the subsequent processing of applications (in particular, by introducing a new admissibility requirement and possibly increasing the number of judges);
- improving and accelerating the execution of judgments (in particular, by monitoring friendly settlements and empowering the Committee of Ministers to institute legal proceedings against countries that do not fulfil their obligations).

The proposals by the Steering Committee already allow for the possibility that the EU may accede to the ECHR.<sup>15</sup> If it does so, EU citizens and other aggrieved parties will be able to lodge applications with the European Court of Human Rights in Strasbourg concerning the actions of EU bodies. This will enable the European Court of Human Rights to fulfil its role as a 'protector of human rights' more effectively and comprehen-

13 See 'Rode draad: de toekomst van het EHRM' in *NJCM-Bulletin*, Vol. 28 (2003), No. 1 et seq. The series opened in Vol. 28, No. 1 with contributions by M. de Boer-Buquicchio, Deputy Secretary General of the Council of Europe, and Wilhelmina Thomassen, the Dutch judge at the European Court of Human Rights. These were followed by articles by R.A. Lawson (Vol. 28, No. 2), E.A. Alkema, T. Barkhuysen and M.L. van Emmerik (Vol. 28, No. 3b) and P. van Dijk and E. Myjer (Vol. 28, No. 4). Some years older, but still highly relevant, are the reflections by the former Dutch judge at the European Court of Human Rights, S.K. Martens, in an article entitled '50 jaar EVRM' in *Nederlands Juristenblad*, 3 November 2000, pp. 1905 et seq.

14 CM(2003)PV1, Addendum: Declaration on 'Guaranteeing the effectiveness of the European Court of Human Rights', paragraph 4.

15 Incidentally, the Secretary General of the Council of Europe recently suggested that the EU could join the Council as an associate member. When completing this advisory report the AIV decided not to make a detailed assessment of this suggestion, as full written details were not available from the Council until just before the report was finalised.



sively. As far as the Council of Europe is concerned the legal obstacles to accession can be overcome,<sup>16</sup> which means that this argument has ceased to be relevant and the question of whether or not the EU will accede now appears to be largely a matter of political will. The AIV acknowledges that there will probably be a further increase in the Court's workload – but this problem will have to be tackled in any case, accession or no accession. All in all, the AIV therefore believes that the advantages of accession outweigh the disadvantages.<sup>17</sup>

The formal decision on EU accession to the ECHR will have to be reached by the Intergovernmental Conference (IGC) that has now got under way. The goal proposed by the Convention (Article 7 paragraph 2 of the draft treaty) will have to be included in the constitutional treaty to be signed at the IGC. This treaty will have to be ratified by all the EU member states, and the Council of the European Union will then have to reach a unanimous decision to commence negotiations on accession. Furthermore, accession by the EU will necessitate a treaty amendment on the Council of Europe's part, and all the member states of the Council of Europe will have to give their consent.<sup>18</sup> A good many problems will therefore need to be solved in the short term. In the medium term, however, the AIV feels that accession is the best option. Accordingly, the AIV believes that during the Dutch Chairmanship the Government should press for as swift a decision as possible on the subject. In the medium term, as a member of the Council of Europe, the Netherlands can also set a good example by strongly encouraging the necessary amendments to the ECHR and then quickly ratifying the amended version.

In addition, the AIV advises the Government, during the debate on the revision of the working procedures and organisation of the European Court of Human Rights, to allow itself to be primarily guided by substantive arguments and the need for efficiency rather than financial, economic or political considerations that would lead to less individual legal protection rather than more. The Court is authoritative and exemplary, and the AIV believes it would be inexcusable to let financial or political considerations undermine the Council's guiding principles. In the AIV's opinion, one option would be to find solutions that will enable the approximately 90% of cases that are manifestly inadmissible to be processed more quickly (for example, by setting up a fifth Section) and to recruit additional Registry staff to help eliminate the large backlogs of work. The AIV does not believe that introduction of the criterion that applicants must have suffered 'substantial disadvantage' is a desirable solution. Such a criterion would in any case not be applicable to manifestly inadmissible cases and would therefore have to be applied to the remaining 10% of cases in which violations may actually have occurred. This would weaken individual legal protection rather than strengthen it as intended.

The AIV has also noted the Netherlands' provisional position on this matter in the memorandum previewing the Dutch Chairmanship of the Council of Europe. Among other things, this states that the Government will endeavour to ensure 'that the European

16 See the 'Study of technical and legal issues of a possible EC/EU accession to the European Convention on Human Rights', Strasbourg: Council of Europe, CDDH (2002) 101, Add. 2, 28 June 2002.

17 In particular, see AIV, 'A European Charter of Fundamental Rights?', Advisory Report No. 15, The Hague, May 2000.

18 For contributions by the Parliamentary Assembly on the subject, see Resolutions 1139 and 1613 (2003) and the accompanying Pangalos report (Doc. 9846) dated 24 June 2003.



Court of Human Rights is in a position to concentrate on cases that will make a substantial contribution to the development of European law'.<sup>19</sup> In this connection the AIV would comment that, although one could choose to emphasise (or further emphasise) the Court's role in the development of law, its legal protection role remains extremely important in view of the large number of applications that are found to be well-founded and the fact that there are member states in which human rights are not yet adequately protected. Especially in order to reduce the Court's workload, the Council of Europe must work to enhance the implementation of the ECHR at national level and strengthen national legal resources rather than place limitations on proceedings in Strasbourg. As one of the founder members of the Council, the Netherlands can and should be expected to play an active, stimulating role in this important debate, which ought to result in a coherent package of measures. Should the Government want the AIV to make more detailed comments on this matter, the AIV is prepared to examine it in the near future.

*Monitoring compliance with treaties: other legal and semi-legal bodies*

Within the range of core tasks outlined here there are many other areas in which efforts could be made to strengthen monitoring procedures or to ensure that adjustments already laid down in treaties are actually put into practice. An example of the latter is the collective complaints procedure added to the European Social Charter by a Protocol that was signed in 1995 and entered into force in 1998. Article I of this Protocol stipulates, in particular, that 'other international non-governmental organisations [i.e. other than employers' and employees' organisations] which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee' may lodge complaints about failure to comply with the Charter. The list now includes almost sixty NGOs, whose activities have already led to twenty registered complaints. In the AIV's view, this procedure should be seen as a structure giving scope to recognised civil-society organisations whose knowledge and expertise make it possible to tackle and solve a series of individual problems within the context of a single case. Experience so far has shown that the procedure works well and that it has led to substantiated decisions on what are often major issues.<sup>20</sup> By mid-September 2003 the Protocol had been ratified by eleven countries and signed by five others. The Netherlands has so far failed to do either, and the AIV believes it should now do so quickly.

The Dutch Government has a reputation to uphold when it comes to strengthening international law. The AIV therefore recommends that during the Dutch Chairmanship the Government should encourage research into the legal soundness and the effectiveness of existing monitoring procedures in respect of the Council's core tasks. These include the procedures applied by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) – see, for example, the debate on the extension of the number of days that the Committee of Independent Experts may spend on visits to states<sup>21</sup> – or the role of the Committee of Independent

<sup>19</sup> Memorandum to the House of Representatives of the States General (letter of 4 March 2003), p. 4.

<sup>20</sup> See successive editions of the Council of Europe's *Human Rights Information Bulletin*, Strasbourg: Directorate-General of Human Rights. Among other things, these deal with complaints lodged by the International Commission of Jurists against Portugal (on child labour) and by the French National Trade Union for Occupations in the Tourist Sector against France (on discrimination in labour-market access for translators, among other things).

<sup>21</sup> Recently, CM(2003)18, 19 March 2003, p. 4.

Experts in monitoring compliance with the ESC and the weight attached to the latter Committee's findings in the final decision by the Committee of Ministers as to whether the ESC has been violated. A similar question arises with regard to the Advisory Committee on National Minorities which 'assists' the Committee of Ministers (Article 26, paragraph 1 of the Framework Convention) in deciding whether countries have violated the Convention.

Without wishing to anticipate the reply to the question of whether such monitoring roles should become more 'legal' in nature, with a more than merely advisory role for the independent experts, it seems advisable for such procedures to be re-examined with some regularity. A good example is the decision (taken when the ECHR underwent its most recent major revision to date) to abolish the role of the Committee of Ministers in the procedure for determining whether there has been a violation of the ECHR. During its Chairmanship, the Netherlands can pursue this line of reasoning by encouraging the research referred to earlier. At the same time, it will have to point out to national governments their responsibility to call other member states to account for violations. The available instruments must actually be used. Focusing on core tasks also means focusing on core procedures. In this connection the Netherlands must take a lead in calling states that violate the ECHR to account for their conduct. This also means the Netherlands should play an active role and take up clear positions within the Committee of Ministers. The fact that, for example, reports by the CPT on Chechnya have not led to any decision by the Committee of Ministers – despite cooperation by the Russian Federation in the CPT's visits – is highly regrettable, for it undermines the Council of Europe's leading role in protecting human rights. As a member of the Council of Europe, the Netherlands should also commit itself to monitoring procedures which it has not yet ratified, such as the collective complaints procedure under the ESC.

*Monitoring compliance with treaties: the Parliamentary Assembly, the Committee of Ministers, the Council of Europe Commissioner for Human Rights and the secretariat*

Apart from the bodies that have been granted powers for this purpose in the individual conventions, such bodies as the Parliamentary Assembly (PA) and the Committee of Ministers (CM) also have a monitoring role. The PA is the parliamentary body of the Council of Europe and performs many different functions. One of its main powers is to elect the Secretary General (SG) and his deputy, the Commissioner for Human Rights and the judges at the European Court of Human Rights. It also gives the work of the Council of Europe a degree of democratic legitimacy, and is the driving force behind many of the Council's standard-setting and monitoring activities. Other activities include the debates in which standards to be met by new member states are drawn up and the follow-up to such debates, as well as the numerous discussions on developments in the field of human rights and the rights of national minorities and persons belonging to them (for a list of reports discussed in 2002-2003, see Annexe VII). In this connection the PA can make use of various instruments: *recommendations* to the Committee of Ministers on matters that fall within the competence of governments; *resolutions* on matters which the PA is itself competent to act on; *opinions* on such matters as the admission of new member states and draft treaties; and *orders*, which usually contain instructions to one or more of the PA's committees. The continued existence of the PA is not in question, but at the same time it is clear that the PA too must reflect on the way it functions and focus on core tasks. It is important to ensure that PA members do not allow the agenda to be excessively determined by national interests and by personal hobbies and lobbies, and that the Council's range of activities does not continue to expand as a result of this, despite the existing 'filtering system' for resolutions

on action to be taken.<sup>22</sup> Increasingly, the discussions within the PA and the resulting resolutions will have to help fulfil the aforementioned core tasks. The AIV also feels that the report by the Committee of Wise Persons, which appeared in 1998 and has still not produced enough specific results, should also play a part here.<sup>23</sup>

As for the CM, it has already been pointed out that it is no longer involved in reaching decisions on violations of the ECHR. Since 1998 its role has been confined to supervising the execution of Court judgments by the relevant states (Article 46, paragraph 2 of the ECHR). However, the decision-making process within the CM is ineffective and inefficient, particularly owing to its size (number of member states), differing interests, lack of focus and poor attendance.<sup>24</sup> As a result, countries that are quite clearly violating the ECHR can do so with impunity for years on end.<sup>25</sup> This is extremely damaging to the Council of Europe's credibility. In such cases the CM should take serious action at a much earlier stage. Measures such as suspension or even expulsion – which has not been used since the 1970s (in the case of Greece) – should not remain a purely theoretical possibility, although they should always be treated as a last resort and other supporting activities are preferable. If the unanimity rule proves an obstacle to firm decision-making, the possibility of using a different procedure – such as consensus-minus-one (OSCE) – can be envisaged in such cases. Holding influential positions can create opportunities as well as obligations. An example is the 'new' member state Moldova, whose Chairmanship led to more rapid reforms, amendment of legislation and considerable attention to the Council's activities in the press and among the general public and NGOs. Even in an 'old' member state like the Netherlands, the Chairmanship may have a positive impact. An active approach to the Dutch Chairmanship (together with funding) may increase awareness in the Netherlands of this unique organisation's role in protecting human rights.

The role of the secretariat is generally felt to be rather ambiguous. On the one hand, together with the PA, it is the driving force behind many of the Council of Europe's activities and its role is a dynamic one. On the other hand, some of its activities seemed to be focused on maintaining its own position rather than supporting and defending the interests of member states, and its procedures have all the hallmarks of cumbersome bureaucracy. The secretariat has been described as a generator of ceaseless documentation. The AIV acknowledges that the Council of Europe needs a well-run, effective secretariat with good facilities in order to carry out all its main activities.

22 Resolutions are reached in stages: proposal, gathering of support, bureau decision-making and plenary decision-making, often followed by decision-making within the CM. Even so, such topics as the environment and animal rights have ended up on the agenda.

23 CM(2003)PV1, Addendum: 'Building Europe without dividing lines', paragraph 1, Strasbourg, November 1998.

24 For example, at the 112th meeting of the Committee of Ministers only twelve countries – none of which were members of the EU – were represented at ministerial level. Another sixteen countries were represented at sub-ministerial level. The Netherlands was represented by the Secretary-General of the Ministry of Foreign Affairs. However, the percentage of relevant ministers attending specialised meetings is considerably higher.

25 Examples are Italy, Greece and Turkey.

In this connection it is quite clear that Council staff are constantly confronted with lack of funding.<sup>26</sup> However, the AIV believes that many of the perceived shortcomings of the Council of Europe secretariat can be remedied by reviewing its procedures and giving things a good shake-up. Focusing on core tasks may lead to a review of the current range of tasks. The possibility of merging or suspending certain programmes will need to be considered. In order for such a programme to be carried out properly in the future, the work of the secretariat (including, for example, its decision-making procedures and methods of budgetary appropriation) must be critically examined. At the same time, current efforts to achieve a better staffing policy, with the emphasis on internal flexibility and above all quality, should be pursued.

Finally, there are interesting opportunities for the Council's Commissioner for Human Rights when it comes to implementing human rights standards. This post was established in 1999 and since then has been held by Alvaro Gil-Robles. The Commissioner has a series of tasks ranging from contribution to human rights education within states to identification of shortcomings within member states and reporting on any violations.<sup>27</sup> The last two, in particular, are monitoring tasks. By visiting member states, either on invitation or on his own initiative, the Commissioner can obtain a clearer picture of the overall human rights situation in the country concerned or can identify the specific areas in which improvement is needed. The Commissioner submits reports on such visits to the CM and the PA, and his recommendations are made public at a later stage. The AIV has pointed out that the post of Commissioner for Human Rights has not had a particularly high profile in the years since it was established. Cooperation with the most relevant departments of the Council of Europe has been somewhat uncoordinated and there have been problems with the exchange of information. This all the more regrettable given the popularity of the Council of Europe as an institution, especially in new member states. The AIV believes that with adequate support from the secretariat the post of Commissioner can make an important contribution to the Council's overall activities (e.g. in the field of execution of judgments of the European Court of Human Rights and in following up reports, and also perhaps in reducing the number of cases brought before the Court). In the AIV's view, the Government should therefore – almost four years after the post was first set up – swiftly press for a systematic appraisal of the Commissioner's mandate and its implementation and ensure that, where necessary, the appraisal leads to specific recommendations on the wording of the mandate, its manner of implementation, its organisation and a profile of the next official to be appointed.

#### *Core and non-core tasks: a closer look*

In the foregoing sections the AIV has indicated the areas it believes the Council of Europe should focus on most closely: (a) tasks whose elaboration and implementation are of particularly crucial importance in the current circumstances (promotion of democracy, etc.) and (b) stricter monitoring of compliance with agreements, under the

26 The financial situation has been described as: 'spreading a smaller and smaller amount of butter on a bigger and bigger slice of bread, so that in the end it no longer has any taste and no longer serves any purpose'.

27 Article 3 of Res. (99) 50, adopted by the Committee of Ministers on 7 May 1999.

28 Under the terms of Article 11 of Resolution (99)50 of 7 May 1999, the current Commissioner is appointed for a period of six years.

motto 'less can be more'. In this connection, the AIV has formulated a number of criteria that can be used to determine whether action by the Council is likely to be required in the future. However, the key terms in the core mandate and the criteria must not be applied uncritically. The Council's activities are clearly beneficial in a number of areas, but the link with the original mandate is not immediately obvious. The AIV has a number of examples to illustrate this.

First of all, there are a number of components of the social cohesion programme (education, housing, employment and health care) which are extremely useful in implementing social rights and which help to create an 'enabling environment' and a direct link with the gradual implementation of the ESC. These topics fall under the heading of human rights and hence are part of the Council's core mandate. Many activities and programmes in this area are funded by the Council of Europe Development Bank. Another example is health care. The Pharmacopoeia – the organisation that deals with the quality of medicines and the standards they must meet before being marketed – is an example of an activity that has done much to implement the right to health care. The organisation, which is almost entirely self-financing, has built up a fine reputation in Europe and around the world, and the AIV does not question the relevance of its work. However, the AIV believes consideration should be given to the possibility of separating the Pharmacopoeia from that of the Council of Europe in the future. In other areas of health care (such as blood safety and quality) the Council of Europe has also done extremely important preliminary work and has set the prevailing standard, including for the EU.<sup>29</sup> Nevertheless, interviewees have indicated that such Council activities are now at a transitional stage. Plans by relevant Dutch ministries to encourage a review of future activities in the field of health care during the Chairmanship (among other things by holding meetings of experts) are a positive development which is fully backed by the AIV.

Anyone who examines the long list of Council of Europe treaties (of which there are currently 192 – see Annexe VIII), plus the aforementioned list of activities (see Annexe IV), will immediately note just how broad the Council's range of activities has become. The list includes such topics as measures to combat terrorism, animal rights, data protection and fiscal matters, as well as insider trading, the use of certain detergents, trade in narcotics, cross-border television and bioethics. There are also various topics in the fields of market liberalisation, sport, youth, the environment, language and cinema – areas in which the European Union and the European Economic Area (EEA) have already taken action of their own. In a number of cases the link with the activities identified as core tasks of the Council of Europe is virtually non-existent or, if it does exist, seems forced (e.g. doping, and various activities in the fields of development cooperation and the environment). Without wishing to deny the importance of these topics as such or to disparage the efforts of people working in these areas, the AIV believes that the entire range of Council of Europe activities is in serious need of review – a review which may lead to substantiated cutbacks (particularly in the case of treaties that have not proved viable) and a concentration of tasks and activities. In his recent report on the budgetary implications of the Council of Europe's activities, the Secretary General of the Council also wrestles with the problem of priorities and makes a number of suggestions on the subject. Among other things, he writes that 'because of the overall budgetary situation, activities relating to bioethics and data protection will have to be significantly reduced in 2004'. He also states that the money released by reduced

29 In this specific area, too, the Council's work has led to the adoption of EU directives.



spending on the 'Visions of Europe' and 'Cultural Heritage' programmes should be channelled into 'other priority fields, particularly the CPT (Convention on the Prevention of Torture)'. What is missing, however, is a specific statement of the philosophy behind such choices. This may create the impression that these are arbitrary, haphazard priorities.

Using the stated criteria and 'contraindications', it should be possible to work out a concentrated range of tasks for the Council of Europe. The argument that it will not be easy in practice to reach a consensus about what are and are not core tasks is no reason to abstain from the exercise, for in that case the continued existence of the Council of Europe as a meaningful organisation will be increasingly called into question and its relevance will be clearly diminished in the eyes of certain member states.

Those who claim that any attempt to concentrate the Council of Europe's tasks will cripple the organisation fail to appreciate its huge importance and the large amount of good work that is now being done. However, it is increasingly important to ask how duplication of effort can be avoided, whether international action is actually needed in certain cases and what such action adds to efforts by national governments (this is a reflection at international level of the debate about 'rolling back government', and there are parallels with the subsidiarity principle). It is also important – especially given the shortage of funding and the limited organisational capacity of international organisations – to consider whether a leaner Council of Europe may in fact be able to carry out its core tasks more effectively. This presupposes in turn that the 'owners' of the Council – the member states – know where they are heading and are encouraged to make the necessary funding available for the choices that are made.

In order to work out these ideas in greater detail and produce an even more meaningful 'job description' for the Council of Europe over the coming years, the AIV proposes that the Government set up an interministerial group of experts to draw up a systematic practical guide as to what should and should not be given priority in Strasbourg, on the basis of criteria and contraindications discussed above, which may if necessary be tightened up and operationalised. The success of this exercise will depend on a critical approach and a willingness to accept that certain existing arrangements may have outlived their historical usefulness.

#### *Links between the Council of Europe and non-members of the EU*

The AIV has also been asked whether the Council of Europe is still a binding factor now that the EU is being enlarged. Its answer to this question is an emphatic 'yes'. In this connection it points to the virtually pan-European nature of the organisation, its ever-important core tasks in the field of human rights, democracy and social cohesion and its concomitant importance as a broad forum (with considerable NGO involvement).<sup>30</sup> In the context of this advisory report, however, the AIV will confine itself to a number of brief comments on the subject. The reason for this restriction is the AIV's programme of work. The topic 'New neighbours and how to deal with them in tomorrow's European architecture' was on the agenda for 2003 and is on the planned agenda for 2004, and the AIV will be examining relevant aspects of these problems in that connection. For the purposes of this report, the AIV simply comments that much of the debate within the Council of Europe is about the desired basic principles of the European states that

<sup>30</sup> See also the report by the Dutch rapporteur to the PA, R. van der Linden, entitled 'Future of cooperation between European institutions', Doc. 9483, 5 June 2002 and Resolution 1290 (2002).

together make up the Council. They are not just a response to violations of human rights, but also aim to reinforce the legal infrastructure of the countries concerned, particularly in order to prevent ethnic and other conflicts. Respect for human rights, including such matters as access to effective, independent courts and democratic government, is also very important to Council of Europe member states that will not be joining the EU, at least for the time being. In this connection the AIV agrees with the Committee of Ministers that the Council must pursue its work in the field of democracy and the rule of law in member states, not simply for its own sake but also in the interests of long-term stability. Non-EU members of the Council of Europe will not only be called to account by the Council for violations of human rights, but also know that they can seek its assistance in creating stable, tolerant societies based on fundamental values.<sup>31</sup> The Russian Federation and Moldova are good examples of this. Of course, member states are at liberty to raise new issues within the Council of Europe, but these will have to satisfy the aforementioned criteria. Issues that do not satisfy the criteria cannot be discussed, regardless of which country has raised them. If the Council seems less relevant to certain member states as a result, so be it.

<sup>31</sup> This also applies, *mutatis mutandis*, to EU member states.

## IV Cooperation with other organisations

The AIV believes that the Council of Europe should focus systematically and lastingly on what have been identified above as its core tasks. As regards its other tasks, there are basically three options: (a) ending or phasing out international activities, (b) transferring them to other organisations (e.g. election observation missions) or (c) cooperating with other organisations. In this connection it is worth while giving a brief general review of existing forms of cooperation between the various European organisations and the Council of Europe and, where necessary, making critical comments (for a summary of institutional cooperation, see Annexe IX). In this advisory report, rather than attempt a cost-benefit analysis of the various organisations' entire range of tasks, the AIV has merely tried to identify a number of important areas in which there are opportunities for improved coordination and cooperation.

### *The Council of Europe and the EU*

The Council of Europe and the EU have roles of their own and a joint role in promoting shared values. In the areas in which the EU is concerned with the protection of human rights, its motivation is largely economic, whereas the Council of Europe is chiefly concerned with protecting human dignity in the broadest sense of the term. Cooperation between the two organisations mainly focuses on strengthening democracy, the rule of law and respect for human rights, as well as protection of national minorities and persons belonging to them.<sup>32</sup> However, there is a difference as regards membership. Even after enlargement to a total of 25 member states, the EU will not have anything like the same character as the Council of Europe; however, the bloc of EU member states may come to exert considerable influence on developments within the structures of the Council of Europe.<sup>33</sup>

There have been institutional links between the two organisations ever since 1974, when the Council of Europe opened an EEC liaison office in Brussels. Cooperation was stepped up in the late 1980s with the creation of a large number of regular consultation structures.<sup>34</sup> Over the years there have been numerous proposals for reform, and recommendations have been drawn up regarding future working procedures and improved cooperation. The idea has always been to identify countries and goals where joint action could be beneficial. In 2000, for instance, a number of joint programmes were launched with a combination of EU funding and Council of Europe expertise to support countries that may become eligible for EU membership in the future. In order to remain involved in the implementation of these programmes, the EU attends meetings of the relevant Council of Europe steering committees. An interim evaluation of the programmes has now shown that as far as the European Commission is concerned this cooperation has given the EU a higher profile and increased the Commission's workload. Efforts are

32 See the 'Joint Declaration on cooperation and partnership between the Council of Europe and the European Commission', Strasbourg, 3 April 2001.

33 Interviews conducted in Strasbourg indicated that in the present circumstances such a bloc did not really exist. The main reason for this was said to be the lack of consensus among current EU partners on the functioning and future of the Council of Europe.

34 These 'Quadripartite meetings' were formalised by in a political declaration dated 5 May 1989.



being made to remedy the latter problem by improving the distribution of tasks, communication and coordination between the Council of Europe and the European Commission, so that tasks can be implemented more realistically and policy can be seen more in terms of addition to and synergy with other programmes.<sup>35</sup> There has also been cooperation in other areas, with greatly varying degrees of success, and in some cases parallel programmes and organisations have been set up, leading to competition. In this connection the AIV points to examples such as the activities to combat racism carried out by the European Commission against Racism and Intolerance (ECRI) and the European Monitoring Centre on Racism and Xenophobia (EUMC), which are of interest to the public, and the many activities carried out by regional and local authorities, as well as a broad range of activities in other fields and institutions (such as language programmes, social topics, culture, the media and support for NGOs). In all these cases the great difference between the Council of Europe and the EU lies in the amount of funding and other resources. These aspects must also be taken into account when the Council of Europe's activities come to be reviewed, as advocated by the AIV. A coherent foreign policy should deal carefully but rationally with human rights activities in various fora. This is a primary task for the governments of the individual member states. In this connection it is important to ensure proper coordination between relevant ministries at national level when carrying out activities; unfortunately, such coordination is not always forthcoming in practice.

Over the years the EU has also acquired new powers under the Treaties of Maastricht (1992), Amsterdam (1997) and Nice (2001), or existing practices have been formalised in treaties. This has brought the activities and responsibilities of the EU and the Council of Europe closer together. The notion that 'fundamental rights form an integral part of the general principles of Community law whose observance the Court ensures' has been part of the settled case law of the Court of Justice in Luxembourg for some decades. Here the Court has let itself be guided and inspired by member states' constitutional traditions, the Charter of Fundamental Rights of the EU and international human rights instruments, especially the ECHR.<sup>36</sup> The case law in question is codified in Article 6, paragraph 2 of the Treaty on European Union. In Article 7 of the Treaty of Nice, the EU has also determined that certain treaty rights of member states may be suspended if they persistently and gravely infringe the principles set out in Article 6, paragraph 1 of the Treaty on European Union (freedom, democracy, respect for human rights and the rule of law). As a result there is increasing overlap between the activities of the EU and the Council of Europe, and it is vital to ensure coordination between the courts in Strasbourg and Luxembourg and to intervene if any serious discrepancies arise.<sup>37</sup> In practice, however, there has already been closer substantive and institutional cooperation between the two courts, especially in the last few years.<sup>38</sup> Finally, the AIV draws attention to the possible implications of the results of the Convention

35 See 'Evaluation of Joint Programmes between the European Commission and the Council of Europe', <http://www.europa.eu.int/comm/europeaid/evaluation/evinfo/tacis/951557>.

36 For more details, see the judgment of 29 May 1997 in Case C-299/95, Kremzow.

37 A case in point is the right to equal treatment, to which the EU has traditionally given high priority.

38 In this connection, see also the comments on the two courts in AIV, 'A European Charter of Fundamental Rights?', Advisory Report No. 15, The Hague, May 2000.

(especially the draft EU Constitution).<sup>39</sup> As already mentioned, both the EU and the Council of Europe are examining the implications that further decision-making in the field of human rights may have for the two organisations.<sup>40</sup>

To sum up, the AIV notes that there appears to be fairly close and effective cooperation in a number of areas. In other areas, cooperation is much more difficult or even non-existent. Given the considerable overlap in policy goals, membership and activities, the AIV doubts whether cooperation as such is the answer to the problems perceived, especially as regards the work of the Council of Europe. It is quite clear to the AIV that the Council of Europe and the EU both have a part to play in the field of human rights and will continue to do so. The real challenge concerns the way in which countries that will not become members of the EU even in the foreseeable future can and will remain involved in the development of law on the subject.

#### *The Council of Europe and the OSCE*

Despite their differences, the Council of Europe and the OSCE have similarities and common ground in a large number of areas.<sup>41</sup> The first of these is membership, which overlaps to a very great extent. The substantive common ground is mainly in the fields of promotion of democracy, human rights, strengthening of the rule of law (including election observation missions) and protection of national minorities and persons belonging to them. The two organisations approach these issues each from their own particular angle, the Council of Europe focusing on implementation of the concept of the rule of law and legal protection of the individual, and the OSCE concentrating (particularly through its many field missions) on the enhancement of political stability in the region and the development and consolidation of good governance, civil cooperation and multi-cultural society.

During the Cold War, in addition to activities in the field of security, the CSCE/OSCE was mainly concerned with human contacts, exchange of information and culture. Since then, however, the much broader notion that democracy, the rule of law and human rights are the best guarantee of peace and security has become part of the OSCE's *acquis*. In the 1990s, the organisation accordingly became involved in such areas as peaceful settlement of disputes between states, crisis management and post-conflict reconstruction. Despite conflicting interests, the Council of Europe and the OSCE have a history of contact and cooperation. Specifically, this cooperation takes place between the secretariats of the two organisations – in the case of the OSCE, the Office for Democratic Institutions and Human Rights (ODIHR), the office of the High Commissioner on National Minorities (HCNM) and the Representative on Freedom in the Media. In recent years there has also been frequent formal and informal consultation and coordination on field missions (with varying success) in order to ensure exchange of information and prevent duplication of effort. The two organisations also work together on identification missions and training courses, as well as in the field of logistics. Examples of cooperation between the Council of Europe and the OSCE in the

39 See also AIV, 'Letter to ministers on the result of the Convention', The Hague, AIV/CEI-28/03, dated 28 August 2003.

40 See also Document SG/Inf (2002)12, dated 28 March 2002.

41 See also 'The Netherlands and the Organisation for Security and Cooperation in Europe in 2003: role and direction', Advisory Report No. 26, The Hague, May 2002.

late 1990s were Bosnia and Herzegovina (preparation for membership of the Council of Europe) and Croatia (especially legislative activities). There has also been cooperation with the ODIHR in various countries, at every stage of the programmes concerned (planning, implementation and evaluation). The Council of Europe and the HCNM have cooperated in numerous programmes (for example in Estonia and Latvia) to ensure a coordinated approach to citizenship, language legislation and integration of foreigners. Joint efforts in connection with new language legislation for minorities in Slovakia (with a role for the European Commission) are a further example. Such cooperation has made it possible to pool the two organisations' knowledge, expertise and political influence. The same applies to cooperation with the OSCE Representative on Freedom in the Media, as well as the drafting of electoral legislation.

In the institutional field, a large number of mainly procedural arrangements have been made over the years to streamline and improve cooperation between the Council of Europe and the OSCE. This has led to what is known as the Common Catalogue of Cooperation Modalities,<sup>42</sup> which describes the main forms of consultation between the two organisations.

However, it may be wondered whether, despite efforts to cooperate more closely and effectively, the organisations are putting their already limited resources to the best use. In both the OSCE and (to a lesser extent) the Council of Europe there has been a successive expansion of activities in overlapping areas. Examples include election observation missions and the battle for access to Chechnya, and more generally the 'human dimension' field. Liaison has proved increasingly difficult, and in some cases the organisations have let themselves be played off against one another.<sup>43</sup> Moreover, they have sometimes tried to claim a particular area as their exclusive preserve, whereas in reality their goals are the same. An example is support for the institution of the ombudsman in former socialist countries; it has been known for the same group of ombudsmen from the region to meet in Warsaw one week and again in Strasbourg a few weeks later. Both organisations are also involved in providing support for legislative reforms in various countries. The AIV can point to yet another example: even though the OSCE now has a separate unit that supports police reforms in Central and Eastern Europe and has built up a fine reputation in that area, the Council of Europe continues to have its own small Police and Human Rights programme, which appears to be having great difficulty in raising the funds it needs.

#### *Cooperation with other organisations: some conclusions*

- The Council of Europe cooperates with the EU and the OSCE in numerous areas. Many arrangements (mainly functional and procedural ones) have been made to improve coordination of activities and exchange of information.
- However, relations between the various organisations remain ambiguous: despite a conviction that close cooperation and synergy can be beneficial, the practical problems requiring a solution mean that there will always be a sense of competition and a tendency for each organisation to expand its own area of activity.

42 Signed in Vienna on 12 April 2000 by the Secretaries General of the Council of Europe and the OSCE.

43 See Ministry of Foreign Affairs, 'Alliance for Human Rights and Democracy', The Hague, 5 June 1998 and the letter of 14 December 2001 from the Minister of Foreign Affairs, Joias van Aartsen, to the House of Representatives of the States General on the relationship between the OSCE, the European Union and the Council of Europe.

- There has been a considerable – not to say excessive – proliferation of similar, and in some cases largely overlapping, activities and organisational structures. All the organisations are involved in such areas as terrorism, racism, the death penalty, minority issues (e.g. the Roma and the Sinti), regional activities, election observation missions, legislative activities and, for example, the holding of seminars on related topics. The activities of the Council of Europe also overlap with those of one or more other organisations in other areas (e.g. field missions, corruption, organised crime, health care and audiovisual media).
- The AIV recommends that answers should not automatically be sought in institutional cooperation. That will not solve all the problems, especially those facing the Council of Europe. In the AIV's view, cooperation and synergy can only be properly organised if the cooperating partners focus clearly on the interests which they were set up to defend and aim for complementarity.
- The AIV recommends that consideration be given to the possibility and desirability of merging and/or thoroughly redistributing tasks in a number of areas, in such a way that exchange of information, preservation of expertise and adequate monitoring are guaranteed. This will require a critical assessment of the full range of activities and structures (even in areas that the AIV believes are among the Council of Europe's core tasks) on the basis of the criteria indicated by the AIV.

## V Conclusions and recommendations

The AIV's reply to the questions raised in the request for an advisory report on the added value of the Council of Europe and its role as a binding factor in tomorrow's Europe is positive. The Council's future will lie in the area in which it has traditionally excelled and for which it is universally respected, namely the maintenance and further realisation of human rights, the rule of law and democracy. This option acknowledges that in addition to the Council of Europe there is an OSCE which since the fall of the Berlin Wall has largely ceased to be bedevilled by East-West confrontation. It also acknowledges the forthcoming enlargement of the EU to a total of 25 member states. As a result, there will be an increasing overlap between the EU and the Council of Europe as regards both numbers of members and relevant areas of activity. All this leads the AIV to conclude that it would be a good thing if the Council of Europe were to focus on the aforementioned core tasks. Cooperation with other organisations operating in the areas covered by the core tasks is of course advisable, provided it is more than just cooperation for its own sake. As a pan-European body, the Council of Europe can indeed be a binding factor, a forum for discussion and an 'antechamber' for decision-making in many areas. In other areas it will be necessary to examine which organisation is best suited to carry out the tasks in question and what forms of coordination and information exchange are most appropriate. The AIV believes that such an outlook offers the Council of Europe's member states, and the Council itself, the best chance of contributing to stability and the quality of law in European society.

### *Core tasks*

Since it was first established in 1949, the Council of Europe has accumulated an extremely broad range of tasks. The AIV observes that many of these activities are extremely valuable. However, such is their breadth that they threaten implementation of the Council's core tasks, which the AIV has summed up as promotion of democracy (including assistance for 'new' member states), promotion of the rule of law, protection of human rights, protection of the rights of minorities and persons belonging to them, preservation and promotion of cultural values and diversity, and assistance for new democracies. This breadth of activity is due to the original goals that the Council was set up to achieve back in 1949 and the way in which these tasks have subsequently been implemented by steering committees, the Parliamentary Assembly, the secretariat and the Committee of Ministers. These players have not always been able or willing to ensure that the entire range of activities remains coherent and linked to the organisation's core tasks. In this connection it should, however, be noted that a number of matters which do not at first sight appear to be among the Council's core tasks sometimes turn out to be so on closer examination.

Since the AIV is naturally unable, within the limits of this advisory report, to examine systematically the full range of the Council's activities and the way in which they are now carried out, it recommends that the Government:

- To focus on sharpening up existing activities and enforcing and effectively applying the Council's monitoring mechanisms.
- To set up an interministerial group of experts in order to draw up a practical guide as to what should and should not be given priority in Strasbourg, on the basis of operationalised criteria and contraindications. The group should be guided by the criteria stated in this report (which may need to be tightened up): (a) is there a direct and immediate link between the core tasks and the activity that has been undertaken or

envisaged, (b) is the decision to carry out the activity necessary, (c) is the activity beneficial and (d) can it be carried out successfully?

- To make a 'quick scan' of the 192 treaties, separately from the systematic assessment described above, to identify those that have been ratified by only a small number of states and are not partial agreements. Such treaties could, after careful assessment, be shelved.

#### *Core and non-core tasks: a 'Wider Europe'*

The AIV is very well aware that the Council is used by a large number of countries (and NGOs) as a platform for discussing issues that they cannot raise anywhere else – because they are not members of the EU, for instance. However, some of these issues do impinge on the Council's core tasks but have aspects where the link is non-existent or, if it exists, seems forced. Examples include cloning, bioethics, measures to combat football hooliganism, cross-border television, doping in sport, the use of certain detergents and various activities in the field of development cooperation and the environment. Such issues can be considered part of the Council's core tasks only if one takes the view that 'everything is related to everything else' – a fatal principle even for an international organisation such as the Council of Europe, and one that if strictly applied would result in a totally unmanageable range of tasks. Moreover, the distinction between the Council and the EU and organisations such as the OSCE would become blurred.

Having said this, the AIV feels that countries which consider such issues important – and whose continuing interest in the Council of Europe is partly or even largely based on this! – should be able to use the Council as a platform for discussing them. In such cases, however, the issue should always be approached from a typical Council of Europe angle – for example, the debate within the Council on measures to combat terrorism could emphasise the human rights angle, which could then be used to confront and 'feed' other organisations operating in this area (the UN, the OSCE and the EU) – or else an attempt should be made to draw up a partial agreement. The latter is a way of making clear that the activity in question is not actually the Council of Europe's business, since it is not part of its core tasks, but that the Council happens to be the best, or only, place to discuss it.

- The AIV recommends the Government not to overlook the Council's broader significance to a number of countries, over and above its core tasks, and to make sparing use of the partial agreement instrument in this connection.

#### *The Council of Europe and member states' own responsibility*

The many activities undertaken by the Council of Europe do not absolve the member states of their responsibility to ensure that they have their houses in order in such matters as the quality of judicial procedures or the protection of national minorities and persons belonging to them (to mention just two examples). The Council can, and frequently does, assist countries with this but cannot in the final analysis take over the member states' own responsibility, not only because that would be wrong in principle but also because the Council would get into great difficulties as a result. An example of this is the European Court of Human Rights' excessive workload. The additional legal protection offered by the Court would be considerably less time-consuming if the member states made sure that their legislation and judicial practices really do meet the standards they themselves have agreed on within the Council.

- The AIV recommends the Government to continue emphasising member states' own responsibility to fulfil their commitments faithfully and willingly. States must be constantly called to account for this. This also means constantly calling upon countries



to ratify at least the Council's core treaties, and in this connection the Netherlands should set a good example.

#### *Use of existing instruments*

Over the last five-and-a-half decades the Council of Europe has built up a considerable array of implementation and monitoring mechanisms. Before the Government considers the possibility of tightening these up (see the next recommendation), it is important to ensure that the existing instruments are actually used, and used more effectively than is now often the case. Examples include the right to lodge inter-State complaints under the ECHR and the Committee of Ministers' role in supervising the execution of judgments handed down by the European Court of Human Rights. As regards the right to lodge inter-State complaints, the AIV notes that, while states rightly view this as a heavyweight instrument, it may sometimes need to be used in order to sustain and enhance the Council's credibility. Failing this, countries may too easily gain the impression that when it comes down to it the Council has no real teeth, and its values may be undermined as a result. The same is true if the Committee of Ministers applies double standards when supervising the execution of judgments or a majority of ministers simply declines to act.

- The AIV recommends the Government to make full use of existing instruments wherever this is desirable from the point of view of the Council's core values and its credibility, which is of crucial importance both internationally and for forthcoming generations of Europeans.

#### *Improvement of existing instruments*

The existing instruments, ranging from possible proceedings before the European Court of Human Rights in Strasbourg or a visit to a state by the CPT to a report by the Advisory Committee on National Minorities, were always developed at a particular time, under a particular political constellation and with the then prevailing wisdom and practical problems in mind. In other words, these mechanisms are not 'set in stone', and their effectiveness must be assessed at regular intervals. A good example is the unavoidable further review of the European Court of Human Rights' procedures. However, other less conspicuous mechanisms also deserve closer inspection. Examples include not only the Council's purely legal procedures, but also quasi-legal ones such as those under the European Social Charter and the Framework Convention for the Protection of National Minorities, as well as the political and/or diplomatic instruments applied by the Parliamentary Assembly, the Council of Europe Commissioner for Human Rights and the Committee of Ministers. When existing instruments are evaluated, moreover, it may be found that the Council lacks some of the things it needs in order to operate efficiently. For example, it may turn out that a greater on-the-spot presence is required, even though joining OSCE missions is not always an option.

- The AIV recommends the Government – in keeping with a tradition which it believes the Dutch Government should uphold and which is also in accordance with Article 90 of the Dutch Constitution ('The Government shall promote the development of the international rule of law') – to commission a study of the importance and effectiveness of existing instruments during the Dutch Chairmanship.
- The AIV also recommends the Government to take action of its own where this is possible in the light of recent discussions on the various monitoring mechanisms. Examples include the proposal that the CPT be allowed to make longer visits to states.

### *The European Court of Human Rights*

Whereas the previous recommendation was concerned with medium-term prospects, the debate on the review of the working procedures and organisation of the European Court of Human Rights clearly requires the Dutch Government to adopt a position in the short term. In this connection the AIV recommends that:

- The Government continue to see the Court's role in the development of law and its legal protection role as important and necessary.
- the Government play an active, stimulating role in the debate and be primarily guided by arguments based on substance and efficiency rather than financial/economic motives or politically motivated arguments whose aim is to reduce individual legal protection.
- Specific efforts be made to strengthen implementation of the ECHR at national level, especially in order to reduce the Court's workload.
- Solutions be found for the workload problem, in particular by establishing a fifth Section and recruiting additional Registry staff so that the approximately 90% of cases that are inadmissible can be processed more quickly. The AIV does not consider introduction of the requirement that the applicant must have suffered 'substantial disadvantage' to be a desirable solution.

The AIV also reiterates the recommendations it made in earlier advisory reports that the EU should accede to the ECHR. Here again, it is important that the European Court of Human Rights be in a position to deal with cases that are already pending or will come before the Court in the future within acceptable periods of time. It also seems likely that applications lodged against the EU and its institutions will raise new legal problems that will consume a good deal of the Strasbourg court's energy and hence time.

### *The Council of Europe Commissioner for Human Rights and the secretariat*

Another instrument worthy of attention is that of the Commissioner for Human Rights. The AIV believes it is very important for the mandate and its implementation to be systematically evaluated after the first period. The problems the AIV has already pointed out in connection with the Commissioner concern, among other things, the exchange of information between the Commissioner and the secretariat, communication between the Commissioner and the Committee of Ministers, and the possibility that the Commissioner could play a much greater role in supervising the execution of judgments of the European Court of Human Rights, reducing or helping to reduce the number of cases brought before the Court and following up reports and judgments.

- The AIV recommends the Government to encourage a timely, systematic evaluation of the Commissioner's mandate and its implementation and to ensure that, where necessary, the evaluation leads to specific recommendations on the wording of the mandate, its manner of implementation, its organisation and a profile of the next official to be appointed.

The AIV acknowledges the secretariat's dynamic, high-quality performance. However, some of its activities seem to be focused on maintaining its own position rather than supporting and defending the interests of member states, and its procedures have all the hallmarks of cumbersome bureaucracy. The AIV believes that many of the perceived shortcomings in the operation of the Council of Europe secretariat can be remedied by reviewing its procedures and giving things a good shake-up.

- The AIV recommends the Government to critically examine the position and role of the secretariat in the implementation of programmes, decision-making procedures and budgetary appropriations. Current efforts to achieve a better staffing policy,



with the emphasis on internal flexibility and above all quality, should also be firmly supported.

#### *Cooperation with other European organisations*

The mandates of the organisations described above overlap in many areas. In itself this is understandable, and the AIV sees no reason for great concern provided the organisations focus closely on the interests they were originally set up to defend and aim for complementarity. What does worry the AIV is that the ‘old’ member states, in particular, are showing little interest in this still very important role of the Council and in the way it is run and have switched their attention to other fora. At the same time the AIV believes that considerable benefit can still be derived from cooperation between the organisations in attaining these often shared goals. Many of the driving forces within organisations – in the case of the Council of Europe, the aforementioned list of steering committees, the Parliamentary Assembly and its members, the secretariat and the Committee of Ministers – always tend to think in terms of their own organisation rather than in terms of problems that require a solution and need to be tackled jointly. In fact, there are already numerous examples of effective cooperation between the various organisations – see the relevant sections of the report for a series of examples – but there are plenty of opportunities for improved coordination and synergy. Furthermore, the Council should be prepared, on the basis of the substantive and procedural criteria set out earlier in this report, to leave some tasks to other organisations or accept that some problems should be handled by a more specialised agency. The Council can then concentrate on the areas in which it excels. The AIV therefore recommends the Government:

- Always to bear in mind, when considering the possible transfer of tasks or institutional cooperation, that relations between the various organisations will always be ambiguous: close cooperation and synergy versus competition and a tendency to expand their own area of activity. The proliferation of similar, often largely overlapping activities and organisational structures among the organisations needs to be critically examined, and the answer should not automatically be sought in institutional cooperation, for this will not solve all the problems. The cooperating partners should focus closely on the interests they were originally set up to defend and aim for complementarity, while guaranteeing exchange of information, preservation of expertise and adequate monitoring.
- To base the necessary critical assessment of the full range of the Council of Europe’s activities and structures (even in areas that the AIV believes are among the Council’s core tasks) on the criteria indicated by the AIV.

#### *The question of money*

The Council of Europe has relatively little funding and cannot possibly carry out all its activities on its current budget. Despite this, the organisation has been compelled to adopt a zero-growth policy, and governments are unlikely to consent to additional funding even if the Council’s core tasks (such as the operation of the European Court of Human Rights) are threatened. Unlike governments, the AIV questions the wisdom of zero growth if the organisation is to carry out its core tasks efficiently. Moreover, the idea of a leaner Council of Europe must not create the impression that further cuts in funding are possible. On the contrary, the AIV feels that present funding is sorely needed if the Council is to fulfil its mandate in a way that is credible within Europe and set the rest of the world a good example. What is more, the Council will have to make certain changes if it is to keep up with the times and offer appropriate answers to current problems. This too will cost money. The AIV believes that a combination of maintaining areas that are now running well, being prepared to cut out those that are not, refusing

to incur obligations that are not part of the organisation's core tasks and adapting the organisation to changed or changing insights will be the key to an even more successful future for the Council of Europe.

## **Annexes**



Minister van Buitenlandse Zaken

F. Korthals Altes  
Chairman, Advisory Council on International Affairs  
Postbus 20061  
2500 EB Den Haag

7 January 2003

Dear Mr Korthals Altes,

I hereby submit a request for an advisory report in connection with the forthcoming Dutch Chairmanship of the Council of Europe, from November 2003 to May 2004.

With the establishment of the Council of Europe in 1949, Europe created an organisation which focuses on all major European issues, with the exception of defence. The initially West European membership has now been expanded to include virtually all Central and East European countries.

The Council of Europe is best known for its activities in the field of human rights and the rule of law. Numerous conventions and treaties have been drawn up in these policy areas, including the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Council of Europe is also active on issues such as migration, social cohesion and social development, minorities and their languages, public health, education, culture, the media, sport, young people and the environment. A large number of international agreements have been drawn up under its auspices in these areas, too. The continual exchange of experience and views between experts from its members' capital cities has brought about a form of intergovernmental cooperation which, with its virtually pan-European nature and the expertise developed over the years, has come to function as the preliminary stage of the European Union's decision-making on many issues.

Besides setting standards and contributing to policy-making, the Council of Europe also monitors the implementation of the accession criteria by new member states, and compliance with the *acquis* by existing member states.

The Council of Europe, EU and OSCE all work for democracy, human rights and good governance. The enlargement of the European Union and the debate within the Union on institutional issues have therefore also attracted the interest of the Council of Europe. Steps

must be taken to prevent new dividing lines being created between EU member states and non-member states in post-enlargement Europe. Given the above developments, and in light of the forthcoming Dutch Chairmanship of the Council of Europe, the following question has arisen.

What is the precise strength and added value of the Council of Europe in relation to the OSCE and the EU?

A second, broader, question that might be considered is: is the Council of Europe a binding factor within or outside the European Union and/or is there a new role for the Council of Europe beyond the current borders of a 'Wider Europe'?

I look forward with interest to reading your views on the above matters. I would be grateful to receive your report on the first question within six months, so that it can be used in the preparations for the Dutch Chairmanship of the Council of Europe, which is due to commence in November 2003.

Yours sincerely,

[signed]

J.G. de Hoop Scheffer  
Minister of Foreign Affairs

## List of individuals consulted in Strasbourg

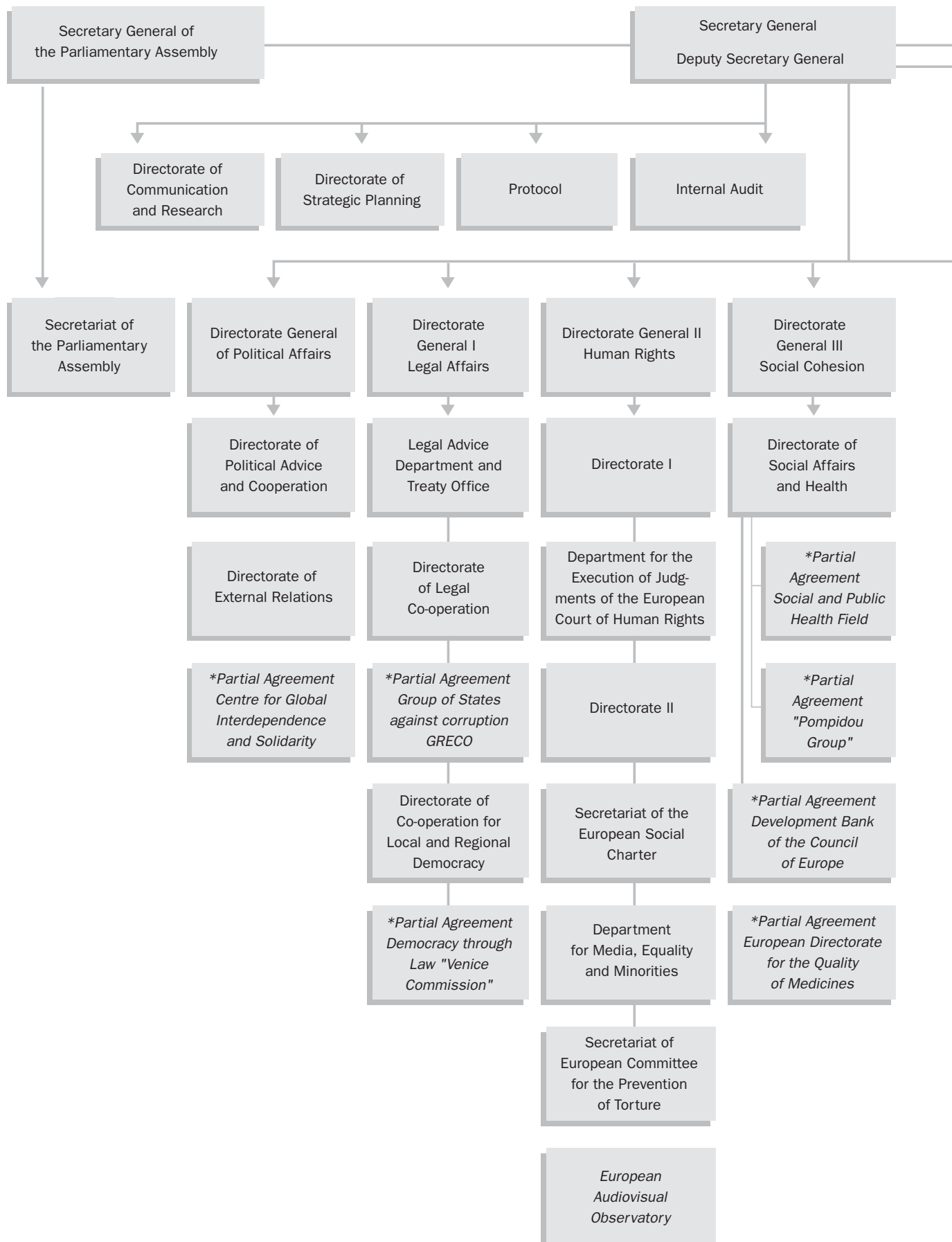
### 1. The Permanent Representation of the Kingdom of the Netherlands at the Council of Europe:

- Mr J. Landman  
*Ambassador of the Netherlands to the Council of Europe*
- Ms L. van Schaik  
*Counsellor, Permanent Representation of the Netherlands to the Council of Europe*
- Ms M. Jongman  
*Second Secretary, Permanent Representation of the Netherlands to the Council of Europe*

### 2. Other persons interviewed:

- Mr T. Aalbu  
*Ambassador of Norway to the Council of Europe*
- Mr M. Åberg  
*Ambassador of Sweden to the Council of Europe*
- Mr G. Andrejevs  
*Ambassador of Latvia to the Council of Europe*
- Ms A. Artiges  
*Director of the European Directorate for the Quality of Medicines (EDQM)*
- Mr J.M. Ballester  
*Director of Culture and Cultural and Natural Heritage*
- Ms G. Battaini  
*Director General of Directorate General III – Social Cohesion*
- Mr P. Blair  
*Director of Cooperation for Local and Regional Democracy*
- Ms M. de Boer-Buquicchio  
*Deputy Secretary General of the Council of Europe*
- Mr G. Buquicchio  
*Secretary of the Venice Commission*
- Mr T. Cartwright  
*Directorate of Strategic Planning*
- Mr J.C. De Cordes  
*Director General of the Directorate General of Political Affairs*
- Mr L.G. Davies  
*Executive Secretary of the Committee of Ministers*
- Mr C. Ghislain  
*Ambassador of Belgium to the Council of Europe*
- Mr S. Howarth  
*Ambassador of the United Kingdom to the Council of Europe*
- Mr P.H. Imbert  
*Director General of the Council of Europe*
- Mr J. de Jonge  
*Director of External Relations of the Directorate General of Political Affairs*

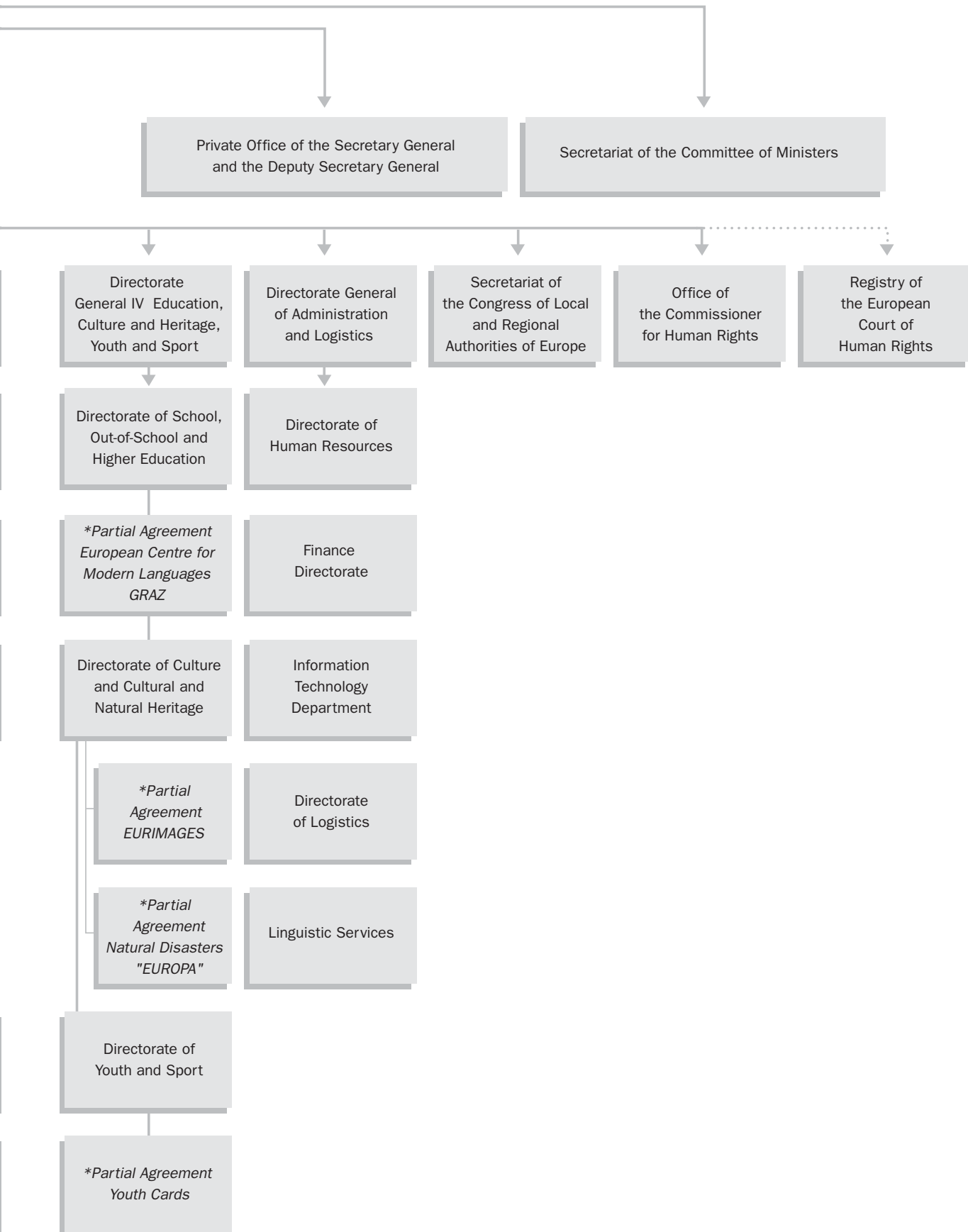
- Mr J.C. Joseph  
*Ambassador of Switzerland to the Council of Europe*
- Mr J. Kleijssen  
*Director of the Private Office of the Secretary General of the Council of Europe*
- Mr R. Lamponi  
*Director of Legal Cooperation*
- Mr J.L. Laurens  
*Director of Strategic Planning*
- Mr P. Mahoney  
*Registrar of the European Court of Human Rights*
- Mr T. Markert  
*Deputy Secretary of the Venice Commission*
- Mr M. Martins  
*Director General of the Directorate General of Administration and Logistics*
- Mr G. Mazza  
*Director of School, Out-of-school and Higher Education*
- Mr A. Orlov  
*Ambassador of the Russian Federation to the Council of Europe*
- Ms R. Roginas  
*Executive Secretary of 'Eurimages'*
- Mr W. Sawicki  
*Director and Head of the Administration and Finance Department of the Parliamentary Assembly*
- Mr M. Scheuer  
*Director of Political Advice and Cooperation*
- Mr J. Schokkenbroek  
*Head of the Human Rights Department of the Council of Europe*
- Mr K. Schumann  
*Director General of the Directorate General of Political Affairs*
- Mr W. Schwimmer  
*Secretary General of the Council of Europe*
- Mr Z. Taubner  
*Ambassador of Hungary to the Council of Europe*
- Ms W. Thomassen  
*Judge at the European Court of Human Rights*
- Mr A. Tulbure  
*Chairman, Committee of Ministers' Deputies, Ambassador of Moldova*
- Mr G. Walker  
*Head of Sport Department*
- Mr L. Wildhaber  
*President of the European Court of Human Rights*



\* Units supporting Partial Agreements



**ORGANISATION CHART OF THE SECRETARIAT OF THE COUNCIL OF EUROPE**



## Extent of Council of Europe's related activities

### Legal affairs

<b>Implementing body</b>	Directorate-General of Legal Affairs (DGI).
<b>Goals</b>	Developing democratic institutions and procedures at national, regional and local level and promoting respect for the principle of the rule of law.
<b>Operations</b>	Intergovernmental activities led by the CM together with all the member states and cooperation with one or more existing or candidate member states to consolidate the rule of law.
<b>DGI departments and activities</b>	<ul style="list-style-type: none"> <li>▪ A <u>legal advice</u> department.</li> <li>▪ A <u>treaty office</u>.</li> <li>▪ A <u>directorate for legal cooperation</u> → topics: legal framework and organisation of a democratic state, legal relations between individuals and with the state, improving the independence and operation of justice, scientific revolution and legal protection of the human being, the rule of law and citizens' security, steering committees on legal cooperation/crime problems/bioethics, high-level meetings on matters including corruption/nationality/family law.</li> <li>▪ A <u>directorate for cooperation for local and regional democracy</u> → topics: trans-frontier cooperation, minority or regional languages, activities for democratic stability, local democracy and transfrontier cooperation in South-East Europe.</li> <li>▪ The <u>European Commission for Democracy through Law (Venice Commission)</u> → the work consists of: specific issues relating to constitutional assistance to certain countries, general topics (comparative approach) and a centre on constitutional justice.</li> </ul>
<b>Additional information</b>	There is a Group of States against Corruption (GRECO) within the Directorate-General of Legal Affairs.

### Social cohesion

<b>Implementing body</b>	European Committee for Social Cohesion (CDCS).
<b>Goals</b>	Main activities in the field of access to social rights, ageing, children and family, employment, social security and social services.
<b>Departments and activities</b>	<ul style="list-style-type: none"> <li>▪ <u>Health and ethics</u> (implementing body: European Health Committee (CDSP)): Activities: blood supplies, citizens' and patients' role, health policy development, health promotion, organ transplantation, stability pact, vulnerable groups.</li> <li>▪ <u>Migration</u> (implementing body: European Committee on Migration (CDMG)): Activities: integration of migrant populations and refugees, legal status of migrants, migrant flows and the causes of migration.</li> <li>▪ <u>Pompidou group</u>: intergovernmental body involved in the fight against drug abuse and drug trafficking. Established in 1971, integrated into the CoE since 1980. Activities: research, epidemiology/ prevention, education and training/ treatment and rehabilitation/legal and criminal justice aspects.</li> </ul>

- Population (implementing body: European Population Committee (CAHP). Main topics in 2001 were the characteristics of immigrant populations, demography and social exclusion, demographic consequences of economic transition. There are also numerous studies on a variety of topics (e.g. 'Trends in mortality and differential mortality' and 'Fertility and new types of household and family formation' - 2001).
- Roma/Gypsy activities (since 1993)
- European Directorate for the Quality of Medicines (EDQM)
- Council of Europe Development Bank (CEB), since 1956: a multilateral development bank with a social vocation.
- South-East Europe Strategic Review: The CoE's contribution to the Stability Pact for South-East Europe. Goal: to examine the possibilities for current and future sustainable social development in the region and to outline a social agenda for achieving long-term stability and sustainable development.
- HDSE project: The Human Dignity and Social Exclusion Project, set up in 1994. Goals: to analyse the status of poverty and social exclusion in Europe and to draft proposals for action by tackling five themes: health, housing, employment, social protection and education.

## Education, culture and heritage, youth and sport

### Culture

The CoE's cultural programme consists of the following components:

- Cultural policy: supports national governments so that they can base their cultural policies on respect for the principles of identities, diversity and participation and integrate the cultural dimension into the concept of human and sustainable development, and assists member states in the conception, planning and management of their cultural policies on the basis of comparative analyses.
- Assistance and development: there are various assistance programmes for certain countries: Archives, MOSAIC (South-East Europe), STAGE (Caucasus), Action Plan for Russia, and Training of Cultural Administrators.
- New Technologies: New Information Technologies, and Books and Electronic Publication.
- Cinema: European Cinema, the short film and Eurimages (the European Support Fund for the Coproduction of Cinematographic Works).
- Exhibitions.
- Other projects: Culture and Neighbourhoods, Culture, Creativity and the Young, and Intercultural Dialogue and Conflict Prevention.

### Heritage

The cultural and natural heritage provides a sense of identity and helps to differentiate communities in a climate of globalisation. It allows cultural communities to discover and understand one another and, at the same time, constitutes a development asset. The CoE's cooperation programme entails devising common policies and standards, developing transnational cooperation networks, providing technical support for member states and organising schemes to increase awareness of heritage values.

### Education

The cooperation programme for education covers the following topics: education for democratic citizenship and human rights, history teaching, intercultural education, languages, higher education, partnerships for educational renewal and training programmes for educational staff. Various steering committees have been set up to handle these topics.

## Sport

- The CoE is active on two fronts to maintain the integrity and the virtues of sport: (1) promoting sport for all as a means of improving the quality of life, facilitating social integration and contributing to social cohesion, particularly among young people, and (2) fostering tolerance through sport and defending sport against the serious threats currently facing it.
- The following has been achieved with regard to sport for all: furthering democracy through and in sport, physical education, Eurofit (personal fitness tests), a Conference of European ministers responsible for sport on the topic 'A clean and healthy sport for the 3rd millennium', the European Sport Charter and a Code of Sports Ethics.
- With regard to doping: Europack (an education and information guide on sport without doping), a list of prohibited doping agents and doping methods, cooperation with the World Anti-Doping Agency, the European Anti-Doping Charter for Sport, recommendations, resolutions and declarations.
- With regard to violence: Sport, tolerance and fair play, the European Prize for Sport Facilities, the European Convention on Spectator Violence and Misbehaviour, recommendations, resolutions and declarations.

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## Youth

The Directorate of Youth and Sport draws up guidelines, programmes and legal instruments for the development of coherent and effective youth policies at local, national and European level. It provides funding and educational support for international youth activities aimed at the promotion of youth citizenship, youth mobility and the value of human rights, democracy and cultural pluralism.

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## Additional information

Other bodies within the Directorate are the Audiovisual Observatory, the Film Data Base (Lumière) and the European Centre for Modern Languages (in Graz).

## Dialogue and civil society

### North-South Centre

Main goal: to encourage cooperation and solidarity between North and South and to improve education and information on interdependence among the world's inhabitants. Target group: young people, especially of African and Mediterranean origin. Working methods: dialogue, partnership, solidarity.

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### NGOs and the CoE

Since 1952 international NGOs have been able to acquire consultative status with the CoE. The number of NGOs with this status is currently 370. The CoE initiated this dialogue with NGOs for three reasons: (1) to find out more about European citizens' views and aspirations, (2) to give European citizens direct representation and (3) to publicise the CoE's activities. In order to acquire consultative status, NGOs must subscribe to the CoE's goals and contribute to its work, as well as being international and representative.

NGOs with consultative status have formed specialist groupings on the following topics: social rights, the European Social Charter, work and social policy, human rights, education and culture, North-South dialogue and solidarity, civil society in the new Europe, countryside and the environment, health, urban issues, gender equality, extreme poverty and social cohesion.

The CM has developed a permanent structure for cooperation with NGOs, consisting of an annual plenary conference of NGOs (which decides on the main lines of action and selects topics for the Liaison Committee) and a Liaison Committee which maintains links with the CoE secretariat, monitors sectoral NGO meetings in the various specialist areas, prepares the plenary conference and the annual programme of work, encourages NGOs to cooperate with the CoE and publicises its work.

## The environment

### Fields and activities

- Nature and biodiversity: nature protection (Bern Convention), biodiversity, ecological networks and environmental awareness.
- The European Landscape Convention (presentation and implementation).
- CEMAT: European Conference of Ministers responsible for Regional Planning.
- Natural and technological hazards: political activities, Euro-Mediterranean Network of Specialised Centres, programmes. The CM has also drawn up an intergovernmental Open Partial Agreement on cooperation in connection with major natural and technological disaster.

## The EU: goals, tasks, powers and means

(based on treaties and policy documents)

Goals	Tasks and powers	Means
<ul style="list-style-type: none"> <li>▪ Greater unity among member states in order to guarantee peace, pluriform democracy and justice, and also to encourage economic and social progress.</li> <li>▪ Promotion of cultural identity and diversity in Europe.</li> <li>▪ Solutions to problems in European society such as discrimination against minorities, xenophobia and organised crime.</li> <li>▪ Contribution to democratic stability in Europe by supporting political, legislative and constitutional reforms.</li> </ul>	<p>Primary tasks: Joint action in the economic, social, cultural, scientific, legal and administrative fields.</p> <p>Main task: promoting respect for human rights and fundamental freedoms.</p> <p>Supporting tasks in the following areas:</p> <ul style="list-style-type: none"> <li>▪ Media and communications.</li> <li>▪ Education, sport, health care and the young.</li> <li>▪ The environment and nature protection.</li> <li>▪ Local democracy.</li> <li>▪ Legal cooperation.</li> </ul>	<p>Over the years more than 190 legally binding instruments have been drawn up by the CoE, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, the Framework Convention for the Protection of National Minorities and the European Convention on the Prevention of Torture.</p> <p>Other instruments include:</p> <ul style="list-style-type: none"> <li>▪ In the political field: inter-institutional cooperation and external relations, contact with NGOs and civil society.</li> <li>▪ In the field of legal affairs and local democracy: intergovernmental cooperation and assistance, and the Venice Commission.</li> <li>▪ In the field of human rights (in addition to the aforementioned treaties): media, equality of women and men and the European Commission against Racism and Intolerance (ECRI).</li> <li>▪ In the field of social cohesion: a Directorate of Social Affairs and Health, the Council of Europe Development Bank (CEB) and a European Directorate for the Quality of Medicines (EDQM).</li> <li>▪ Programmes in support of education of democratic citizenship, higher education for a democratic society, review of European higher education, support in the field of cultural heritage.</li> <li>▪ Field missions to Chechnya, the former Yugoslavia, Kosovo, etc., election observation missions in many countries, missions concerning the security sector in member states, missions concerning the succession and recognition of states, etc.</li> </ul>

## The EU: goals, tasks, powers and means

Goals	Tasks and powers	Means
<p>The OSCE is mainly concerned with preventing conflicts or providing post-conflict assistance by contributing to the reconstruction of democracy and the rule of law.</p> <p>The OSCE is also a community of values, there being a direct link between (a) security and stability and (b) prosperity, democracy and respect for human rights.</p> <p>The 1975 Helsinki Final Act contains the ten principles on which the organisation is based:</p> <ol style="list-style-type: none"> <li>1. Sovereign equality and respect for the rights inherent in sovereignty.</li> <li>2. Refraining from the threat or use of force.</li> <li>3. Inviolability of frontiers.</li> <li>4. Territorial integrity of states.</li> <li>5. Peaceful settlement of disputes.</li> <li>6. Non-intervention in internal affairs.</li> <li>7. Respect for human rights and fundamental freedoms.</li> <li>8. Equal rights and self-determination of peoples.</li> <li>9. Cooperation among states.</li> <li>10. Fulfilment in good faith of obligations under international law.</li> </ol>	<p>The Helsinki Final Act speaks of 'three baskets', now referred to as 'dimensions':</p> <ul style="list-style-type: none"> <li>▪ Agreements in the field of security policy, particularly aimed at promoting mutual trust (the security policy dimension).</li> <li>▪ Agreements aimed at promoting cooperation in the field of economics, science and technology and the environment (the economic and environmental dimension).</li> <li>▪ Agreements aimed at promoting human contacts and, in particular implementation of human rights (the human dimension).</li> </ul>	<p>The OSCE's 'toolbox' consists of the following political and other instruments:</p> <ul style="list-style-type: none"> <li>▪ Fact-finding and rapporteur missions (short-term visits by experts to ascertain report on facts).</li> <li>▪ Missions and other field activities (the OSCE's main instrument for long-term conflict prevention, crisis management, settlement of conflicts and post-conflict reconstruction of societies).</li> <li>▪ Personal representatives of the Chairperson-in-Office (individuals appointed to assist the CiO in conflict situations).</li> <li>▪ Ad hoc steering committees (to assist the CiO with certain tasks).</li> <li>▪ Mechanisms for the peaceful settlement of conflicts (procedures that facilitate direct contact between parties involved in the conflict).</li> <li>▪ Peacekeeping operations (can be used in conflict situations between OSCE member states or involving an OSCE member states).</li> </ul>



## The EU: goals, tasks, powers and means

Goals	Tasks and powers	Means
<p>The main goals, as set out in Article 2 of the Treaty on European Union, are:</p> <ul style="list-style-type: none"> <li>▪ to strengthen the protection of the rights and interests of the nationals of its member states (citizenship of the Union).</li> <li>▪ to maintain and develop the Union as an area of freedom, security and justice (including measures in the field of asylum, immigration and police and judicial cooperation).</li> <li>▪ to promote economic and social progress (the internal market; the single currency; creation of employment; regional development; environmental protection).</li> <li>▪ to assert the Union's identity on the international scene (common foreign and security policy (CFSP)).</li> </ul>	<p>The EC's powers (Article 3 of the EC Treaty) include pursuing a common trade policy, creating an internal market, a common agricultural, fisheries, environmental and transport policy, harmonisation of national legislation, policy in the field of development cooperation, coordination of member states' employment policies, strengthening of economic and social cohesion, etc.</p> <p>Powers relating to the CFSP include the gradual development of a common defence policy and are laid down in Title V of the Treaty on European Union. Title VI deals with the Union's powers in the field of police and judicial cooperation in criminal cases.</p> <p>The EU's powers are based on the principles of subsidiarity and proportionality. The first of these principles ensures that in areas of shared competence (in which both the EC and the member states are competent to act), the EC will only act if, and to the extent that, the member states are unable to attain the stated goals (Article 5 of the EC Treaty). The second principle stipulates that action by the EC must never go beyond what is necessary to attain the goals of the EC Treaty.</p>	<p>The means available in order to attain the goals of Article 3 of the EC Treaty are the creation of an internal market, the regulation of national policy and the creation of economic and monetary union.</p> <p>The means available for the development of a CFSP are the promotion of systematic cooperation between member states and the identification of EU action in this area.</p> <p>The means available for the creation of an area of freedom, security and justice include the adoption of EU decisions and framework decisions in this field and the promotion of closer cooperation between authorities in the member states.</p>

## Member states CoE/OSCE/EU

	Member states CoE	Participating states OSCE	Member states EU	Candidate states EU
Albania	▪	▪		
Andorra	▪	▪		
Armenia	▪	▪		
Austria	▪	▪	▪	
Azerbaijan	▪	▪		
Belarus	applicant	▪		
Belgium	▪	▪	▪	
Bosnia- Herzegovina	▪	▪		
Bulgaria	▪	▪		▪
Canada	observer status	▪		
Croatia	▪	▪		
Cyprus	▪	▪		▪
Czech Rep.	▪	▪		▪
Denmark	▪	▪	▪	
Estonia	▪	▪		▪
Finland	▪	▪	▪	
France	▪	▪	▪	
Georgia	▪	▪		
Germany	▪	▪	▪	
Greece	▪	▪	▪	
Hungary	▪	▪		▪
Iceland	▪	▪		
Ireland	▪	▪	▪	
Italy	▪	▪	▪	
Kazakhstan		▪		
Kyrgyzstan		▪		
Latvia	▪	▪		▪
Liechtenstein	▪	▪		
Lithuania	▪	▪	▪	▪
Luxemburg	▪	▪		
Macedonia	▪	▪		
Malta	▪	▪		▪

## Member states CoE/OSCE/EU

	Member states CoE	Participating states OSCE	Member states EU	Candidate states EU
Moldova	▪	▪		
Monaco	applicant	▪		
The Netherlands	▪	▪	▪	
Norway	▪	▪		
Poland	▪	▪		▪
Portugal	▪	▪	▪	
Romania	▪	▪		▪
Russian Federation	▪	▪		
San Marino	▪	▪		
Serbia/Montenegro	▪	▪		
Slovakia	▪	▪		▪
Slovenia	▪	▪		▪
Spain	▪	▪	▪	
Sweden	▪	▪		
Switzerland	▪	▪		
Tajikistan		▪		
Turkey	▪	▪		▪
Turkmenistan		▪		
United Kingdom	▪	▪	▪	
United States	observer status	▪		
Ukraine	▪	▪		
Uzbekistan		▪		
Vatican City	observer status	▪		

## LIST OF REPORTS DISCUSSED BY THE ASSEMBLY IN 2002/03 - PER COMMITTEES

COMMISSION	TITLE OF THE REPORT
	- Request for CE membership: Bosnia & Herzegovina (Doc. 9287)
	- Situation in Cyprus (Doc. 9302)
	- Conflict in the Chechen Republic (Doc. 9319)
	- Situation in the Middle East (Doc. 9421)
	- Situation in the Middle East (Doc. 9499)
	- Parliamentary scrutiny of international institutions (Doc. 9484)
	- Future of co-operation between European institutions (Doc. 9483)
	- Federal Rep of Yugoslavia's application for membership of the CE (Doc. 9533)
	- Conflict in the Chechen Republic: information report (Doc. 9559)
	- The CE and the new issues involved in building Europe (Doc. 9544)
	- Enlargement of the EU and the Kaliningrad Region (Doc. 9560)
	- Situation in Georgia and the consequences for the stability of the Caucasus region (Doc. 9564)
	- Threat of military action against Iraq (Doc. 9572)
	- Situation in Belarus (Doc. 9543)
	- Contribution of the CE to the Constitution-making process of the EU (Doc. 9666)
	- Iraq (Doc. 9690)
	- Code of good practice in electoral matters (Doc. 9624)
	- Europe and the war in Iraq (Doc. 9768)
	- Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe (Doc. 9824)
	- The CE and the Convention on the Future of Europe (Doc. 9846)
<b>Legal Affairs and Human Rights</b>	- Draft protocol to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances (Doc. 9316)
	- Implementation of decisions of the European Court of HR (Doc. 9307)
	- Combating terrorism and respect for HR (Doc. 9331)
	- Political prisoners in Azerbaijan (Doc. 9310)
	- Russia's law on religion (Doc. 9393)
	- Protection of minorities in Belgium (Doc. 9395)
	- Legal situation of Roma in Europe (Doc. 9397)
	- Implementation of decisions of the European Court of Human Rights by Turkey (Doc. 9537)

COMMISSION	TITLE OF THE REPORT
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|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Political Affairs</b> | - Risks for the integrity of the Statute of the International Criminal Court (Doc. 9567)                                                                                               |
|                          | - Protection and Minorities in Belgium (Doc 9536)                                                                                                                                      |
|                          | - Draft additional Protocol to the Convention on Cybercrime on the criminalisation of acts of a racist or xenophobic nature committed through computer systems (Doc. 9538)             |
|                          | - Draft protocol amending the European Convention on the Suppression of Terrorism (Doc. 9649)                                                                                          |
|                          | - Protection of sign languages in member states of the CE (Doc. 9738)                                                                                                                  |
|                          | - The Human Rights situation in the Chechen Republic (Doc. 9732)                                                                                                                       |
|                          | - Areas where the ECHR cannot be implemented (Doc. 9730)                                                                                                                               |
|                          | - Rights and fundamental freedoms of Greek Cypriots and Maronites living in the northern part of Cyprus (Doc. 9714)                                                                    |
|                          | - Preferential treatment of national minorities by the kin-state: the case of the Hungarian law of 19 June 2001 on Hungarians living in neighbouring countries ("Magyars") (Doc. 9744) |
|                          | - Threats to the International Criminal Court (Doc. 9844)                                                                                                                              |
|                          | - Political prisoners in Azerbaijan (Doc. 9826)                                                                                                                                        |
|                          | - Rights of persons held in the custody of the US in Afghanistan or Guantanamo Bay (Doc. 9817)                                                                                         |

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|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Economic Affairs and Development</b> | - Managing globalisation: the role of the WTO in the world economy (Doc. 9295)                                                                  |
|                                         | - Air transport and terrorism: how to enhance security? (Doc. 9296)                                                                             |
|                                         | - Budgets of the CE for the financial year 2003 (Doc. 9386)                                                                                     |
|                                         | - Expenditure of the PACE for the financial year 2003 (Doc. 9387)                                                                               |
|                                         | - The "New Economy" and Europe (Doc. 9398)                                                                                                      |
|                                         | - Contribution of the EBRD to economic development in central and eastern Europe (Doc. 9482)                                                    |
|                                         | - The IMF and the WB: challenges ahead (Doc. 9478)                                                                                              |
|                                         | - Ensuring a prosperous future for the Kaliningrad region: the need for European solidarity (Doc. 9524)                                         |
|                                         | - OECD and the World Economy (Doc. 9505)                                                                                                        |
|                                         | - Progress on the Stability Pact for South-Eastern Europe: enhancing security and political stability through economic co-operation (Doc. 9638) |
|                                         | - Budgets of the CE for the financial year 2004 (Doc. 9734)                                                                                     |
|                                         | - Expenditure of the PACE for the financial year 2004 (Doc. 9735)                                                                               |
|                                         | - 50 years of ECMT: transport policies for the Greater Europe (Doc. 9737)                                                                       |
|                                         | - European and the development of energy resources in the Caspian Sea region (Doc. 9635)                                                        |
|                                         | - Contribution of the EBRD to economic development in Central and Eastern Europe (Doc. 9825)                                                    |
|                                         | - European air transport policies: crucial choices at a critical time (Doc. 9823)                                                               |

COMMISSION	TITLE OF THE REPORT
	- European air transport policies: crucial choices at a critical time (Doc. 9823)
<b>Social, Health and Family Affairs</b>	- Social consequences of and responses to drug misuse in member states (Doc. 9303)
	- Training of workers in the use of new technologies (Doc. 9402)
	- Towards concerted efforts for treating and curing spinal cord injury (Doc. 9401)
	- Campaigning against passive and active smoking: daring to innovate and step up public health protection measures (Doc. 9463)
	- International abduction of children by one of the parents (Doc. 9476)
	- Sexual exploitation of children: zero tolerance (Doc. 9535)
	- Challenges of social policy in our ageing societies (Doc. 9615)
	- Towards full social inclusion of persons with disabilities (Doc. 9632)
	- Improving the lot of abandoned children in institutions (Doc. 9692)
	- Trafficking in organs in Europe (Doc. 9822)
<b>Migration, Refugees and Demography</b>	- Expulsion procedures in conformity with HR and enforced with respect for safety and dignity (Doc. 9196)
	- Right to family life for migrants and refugees (Doc. 9295)
	- Activities of the ICRC (Doc. 9388)
	- Situation of refugees and displaced persons in the Federal Republic of Yugoslavia (Doc. 9479)
	- Situation of refugees and displaced persons in Armenia, Azerbaijan and Georgia (Doc. 9480)
	- Creation of a charter of intent on clandestine migration (Doc. 9522)
	- Population displacement in South-Eastern Europe: trends, problems, solutions (Doc. 9519)
	- The situation of young migrants in Europe (Doc 9645)
	- Activities of the International Organisation for Migration, 1998 – 2002 (Doc. 9814)
	- Colonisation by Turkish settlers of the occupied part of Cyprus (Doc. 9799)
	- The situation of Palestinian refugees (Doc. 9808)
<b>Culture, Science and Education</b>	- Scientific communication (Doc. 9300)
	- Religion and change in central and eastern European countries (Doc. 9399)
	- European cultural cooperation and the future role of the Assembly (Doc. 9473)
	- Freedom of expression in the media in Europe (Doc. 9640)
	- Cultural co-operation between Europe and the south Mediterranean countries (Doc. 9626)
	- Cultural situation in the south Caucasus (Doc. 9736)

COMMISSION	TITLE OF THE REPORT
<b>Environment, Agriculture, Local Authorities</b>	<ul style="list-style-type: none"> <li>- Forest management in Canada and co-operation with Europe (Doc. 9288)</li> <li>- Fisheries in Europe's semi-land-locked seas (Doc. 9373)</li> <li>- Preservation and management of fish stocks (Doc. 9383)</li> <li>- World summit on sustainable development: ten years after Rio (Doc. 9481)</li> <li>- Reducing environmental risks by destroying chemical weapons (Doc. 9472)</li> <li>- State of the environment of the Baltic Sea (Doc. 9470)</li> <li>- Marine pollution (Doc. 9684)</li> <li>- Globalisation and sustainable development (Doc. 9660)</li> <li>- Follow-up to the World Summit on Sustainable development: a common challenge (Doc. 9659)</li> <li>- Draft revised Convention for the protection of animals during international transport – request by the CM for an opinion (Doc. 9743)</li> <li>- Challenges for a new agricultural policy (Doc. 9636)</li> <li>- Agriculture and enlargement of the European Union (Doc. 9812)</li> <li>- Challenges for Mediterranean agriculture (Doc. 9807)</li> <li>- Environment and human rights (Doc. 9791)</li> </ul>
<b>Monitoring</b>	<ul style="list-style-type: none"> <li>- Honouring of obligations and commitments by the Russian Federation (Doc. 9396)</li> <li>- Functioning of democratic institutions in Moldova (Doc. 9418)</li> <li>- Honouring of obligations and commitments by Armenia (Doc. 9542)</li> <li>- Honouring of obligations and commitments by Azerbaijan (Doc. 9545)</li> <li>- Functioning of democratic institutions in Moldova (Doc. 9571)</li> <li>- Progress of the Assembly's monitoring procedure (Doc. 9651)</li> </ul>
<b>Equal Opportunities for Women &amp; Men</b>	<ul style="list-style-type: none"> <li>- Campaign against trafficking in women (Doc. 9190)</li> <li>- Image of women in the media (Doc. 9394)</li> <li>- Situation of Maghrebi women (Doc. 9487)</li> <li>- Domestic violence (Doc. 9525)</li> <li>- So-called "honour crimes" (Doc. 9720)</li> <li>- Women and micro-loans (Doc. 9696)</li> <li>- Migration connected with trafficking in women and prostitution (Doc. 9795)</li> </ul>
<b>Rules of Procedure and Immunities</b>	<ul style="list-style-type: none"> <li>- Immunities of the Members of the Parliamentary Assembly (Doc. 9718)</li> </ul>



**List of the Council of Europe's treaties (as of May 2003)**Source: Treaty Office on <http://conventions.coe.int>

<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
001	Statute of the Council of Europe	05/05/49	03/08/49
002	General Agreement on Privileges and Immunities of the Council of Europe	02/09/49	10/09/52
005	Convention for the Protection of Human Rights and Fundamental Freedoms	04/11/50	03/09/53
009	Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms	20/03/52	18/05/54
010	Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	06/11/52	11/07/56
012	European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors	11/12/53	01/07/54
012A	Protocol to the European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors	11/12/53	01/10/54
013	European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors	11/12/53	01/07/54
013A	Protocol to the European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors	11/12/53	01/10/54
014	European Convention on Social and Medical Assistance	11/12/53	01/07/54
014A	Protocol to the European Convention on Social and Medical Assistance	11/12/53	01/07/54
015	European Convention on the Equivalence of Diplomas leading to Admission to Universities	11/12/53	20/04/54
016	European Convention relating to the Formalities required for Patent Applications	11/12/53	01/06/55
017	European Convention on the International Classification of Patents for Inventions	19/12/54	01/08/55
018	European Cultural Convention	19/12/54	05/05/55
019	European Convention on Establishment	13/12/55	23/02/65
020	Agreement on the Exchange of War Cripples between Member Countries of the Council of Europe with a view to Medical Treatment	13/12/55	01/01/56
021	European Convention on the Equivalence of Periods of University Study	15/12/56	18/09/57
022	Second Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	15/12/56	15/12/56
023	European Convention for the Peaceful Settlement of Disputes	29/04/57	30/04/58
024	European Convention on Extradition	13/12/57	18/04/60
025	European Agreement on Regulations governing the Movement of Persons between Member States of the Council of Europe	13/12/57	01/01/58
026	European Agreement on the Exchange of Therapeutic Substances of Human Origin	15/12/58	1/01/59
027	European Agreement concerning Programme Exchanges by means of Television Films	15/12/58	01/07/61
028	Third Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	06/03/59	15/03/63
029	European Convention on Compulsory Insurance against Civil Liability in respect of Motor Vehicles	20/04/59	22/09/69
030	European Convention on Mutual Assistance in Criminal Matters	20/04/59	12/06/62

<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
031	European Agreement on the Abolition of Visas for Refugees	20/04/59	04/09/60
032	European Convention on the Academic Recognition of University Qualifications	14/12/59	27/11/61
033	Agreement on the Temporary Importation, free of duty, of Medical, Surgical and Laboratory Equipment for use on free loan in Hospitals and other Medical Institutions for purposes of Diagnosis or Treatment	28/04/60	29/07/60
034	European Agreement on the Protection of Television Broadcasts	22/06/60	01/07/61
035	European Social Charter	18/10/61	26/02/65
036	Fourth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	16/12/61	16/12/61
037	European Agreement on Travel by Young Persons on Collective Passports between the Member Countries of the Council of Europe	16/12/61	17/01/62
038	European Agreement on Mutual Assistance in the matter of Special Medical Treatments and Climatic Facilities	14/05/62	15/06/62
039	European Agreement on the Exchanges of Blood-Grouping Reagents	14/05/62	14/10/62
040	Agreement between the Member States of the Council of Europe on the issue to Military and Civilian War-Disabled of an International Book of Vouchers for the repair of Prosthetic and Orthopaedic Appliances	17/12/62	27/12/63
041	Convention on the Liability of Hotel-keepers concerning the Property of their Guests	17/12/62	15/02/67
042	Agreement relating to Application of the European Convention on International Commercial Arbitration	17/12/62	25/01/65
043	Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality	06/05/63	28/03/68
044	Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions	06/05/63	21/09/70
045	Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention	06/05/63	21/09/70
046	Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto	16/09/63	02/05/68
047	Convention on the Unification of Certain Points of Substantive Law on Patents for Invention	27/11/63	01/08/80
048	European Code of Social Security	16/04/64	17/03/68
048A	Protocol to the European Code of Social Security	16/04/64	17/03/68
049	Protocol to the European Convention on the Equivalence of Diplomas leading to Admission to Universities	03/06/64	04/07/64
050	Convention on the Elaboration of a European Pharmacopoeia	22/07/64	08/05/74
051	European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders	30/11/64	22/08/75
052	European Convention on the Punishment of Road Traffic Offences	30/11/64	18/07/72
053	European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories	22/01/65	19/10/67
054	Protocol to the European Agreement on the Protection of Television Broadcasts	22/01/65	24/03/65

<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
055	Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention	20/01/66	20/12/71
056	European Convention providing a Uniform Law on Arbitration	20/01/66	
057	European Convention on Establishment of Companies	20/01/66	
058	European Convention on the Adoption of Children	24/04/67	26/04/68
059	European Agreement on the Instruction and Education of Nurses	25/10/67	07/08/69
060	European Convention on Foreign Money Liabilities	11/12/67	
061	European Convention on Consular Functions	11/12/67	
061A	Protocol to the European Convention on Consular Functions concerning the Protection of Refugees	11/12/67	
061B	Protocol to the European Convention on Consular Functions relating to Consular Functions in respect of Civil Aircraft	11/12/67	
062	European Convention on Information on Foreign Law	07/06/68	17/12/69
063	European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers	07/06/68	14/08/70
064	European Agreement on the Restriction of the Use of certain Detergents in Washing and Cleaning Products	16/09/68	16/02/71
065	European Convention for the Protection of Animals during International Transport	13/12/68	20/02/71
066	European Convention on the Protection of the Archaeological Heritage	06/05/69	20/11/70
067	European Agreement relating to Persons participating in Proceedings of the European Commission and Court of Human Rights	06/05/69	17/04/71
068	European Agreement on Au Pair Placement	24/11/69	30/05/71
069	European Agreement on continued Payment of Scholarships to students studying abroad	12/12/69	02/10/71
070	European Convention on the International Validity of Criminal Judgments	28/05/70	26/07/74
071	European Convention on the Repatriation of Minors	28/05/70	
072	Convention relating to Stops on Bearer Securities in International Circulation	28/05/70	11/02/79
073	European Convention on the Transfer of Proceedings in Criminal Matters	15/05/72	30/03/78
074	European Convention on State Immunity	16/05/72	11/06/76
074A	Additional Protocol to the European Convention on State Immunity	16/05/72	22/05/85
075	European Convention on the Place of Payment of Money Liabilities	16/05/72	
076	European Convention on the Calculation of Time-Limits	16/05/72	28/04/83
077	Convention on the Establishment of a Scheme of Registration of Wills	16/05/72	20/03/76
078	European Convention on Social Security	14/12/72	01/03/77
078A	Supplementary Agreement for the Application of the European Convention on Social Security	14/12/72	01/03/77
079	European Convention on Civil Liability for Damage caused by Motor Vehicles	14/05/73	
080	Agreement on the Transfer of Corpses	26/10/73	11/11/75
081	Additional Protocol to the Protocol to the European Agreement on the Protection of Television Broadcasts	14/01/74	31/12/74

<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
082	European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes	25/01/74	27/06/03
083	European Convention on the Social Protection of Farmers	06/05/74	17/06/77
084	European Agreement on the Exchange of Tissue-Typing Reagents	17/09/74	23/04/77
085	European Convention on the Legal Status of Children born out of Wedlock	15/10/75	11/08/78
086	Additional Protocol to the European Convention on Extradition	15/10/75	20/08/79
087	European Convention for the Protection of Animals kept for Farming Purposes	10/03/76	10/09/78
088	European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle	03/06/76	28/04/83
089	Additional Protocol to the European Agreement on the Exchange of Tissue-Typing Reagents	24/06/76	23/04/77
090	European Convention on the Suppression of Terrorism	27/01/77	04/08/78
091	European Convention on Products Liability in regard to Personal Injury and Death	27/01/77	
092	European Agreement on the Transmission of Applications for Legal Aid	27/01/77	28/02/77
093	European Convention on the Legal Status of Migrant Workers	24/11/77	01/05/83
094	European Convention on the Service Abroad of Documents relating to Administrative Matters	24/11/77	01/11/82
095	Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality	24/11/77	08/09/78
096	Additional Protocol to the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality	24/11/77	17/10/83
097	Additional Protocol to the European Convention on Information on Foreign Law	15/03/78	31/08/79
098	Second Additional Protocol to the European Convention on Extradition	17/03/78	05/06/83
099	Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters	17/03/78	12/04/82
100	European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters	15/03/78	01/01/83
101	European Convention on the Control of the Acquisition and Possession of Firearms by Individuals	28/06/78	01/07/82
102	European Convention for the Protection of Animals for Slaughter	10/05/79	11/06/82
103	Additional Protocol to the European Convention for the Protection of Animals during International Transport	10/05/79	07/11/89
104	Convention on the Conservation of European Wildlife and Natural Habitats	19/09/79	01/06/82
105	European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children	20/05/80	01/09/83
106	European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities	21/05/80	22/12/81
107	European Agreement on Transfer of Responsibility for Refugees	16/10/80	01/12/80
108	Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data	28/01/81	01/10/85

<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
109	Additional Protocol to the European Agreement on the Exchange of Therapeutic Substances of Human Origin	01/01/83	01/01/85
110	Additional Protocol to the Agreement on the Temporary Importation, free of duty, of Medical, Surgical and Laboratory Equipment for Use on free loan in Hospitals and other Medical Institutions for Purposes of Diagnosis or Treatment	01/01/83	01/01/85
111	Additional Protocol to the European Agreement on the Exchanges of Blood-Grouping Reagents	01/01/83	01/01/85
112	Convention on the Transfer of Sentenced Persons	21/03/83	01/07/85
113	Additional Protocol to the Protocol to the European Agreement on the Protection of Television Broadcasts	21/03/83	01/01/85
114	Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty	28/04/83	01/03/85
115	Protocol amending the European Agreement on the Restriction of the Use of certain Detergents in Washing and Cleaning Products	25/10/83	01/11/84
116	European Convention on the Compensation of Victims of Violent Crimes	24/11/83	01/02/88
117	Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms	22/11/84	01/11/88
118	Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms	19/03/85	01/01/90
119	European Convention on Offences relating to Cultural Property	23/06/85	
120	European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches	19/08/85	01/11/85
121	Convention for the Protection of the Architectural Heritage of Europe	03/10/85	01/12/87
122	European Charter of Local Self-Government	15/10/85	01/09/88
123	European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes	18/03/86	01/01/91
124	European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations	24/04/86	01/01/91
125	European Convention for the Protection of Pet Animals	13/11/87	01/05/92
126	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	26/11/87	01/02/89
127	Convention on Mutual Administrative Assistance in Tax Matters	25/01/88	01/04/95
128	Additional Protocol to the European Social Charter	05/05/88	04/09/92
129	Arrangement for the Application of the European Agreement of 17 October 1980 concerning the Provision of Medical Care to Persons during Temporary Residence	26/05/88	
130	Convention on Insider Trading	20/04/89	01/10/91
131	Third Additional Protocol to the Protocol to the European Agreement on the Protection of Television Broadcasts	20/04/89	
132	European Convention on Transfrontier Television	05/05/89	01/05/93
133	Protocol to the Convention on Insider Trading	11/09/89	01/10/91
134	Protocol to the Convention on the Elaboration of a European Pharmacopoeia	16/11/89	01/11/92
135	Anti-Doping Convention	16/11/89	01/03/90
136	European Convention on Certain International Aspects of Bankruptcy	05/06/90	
137	Fifth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	18/06/90	01/11/91

<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
138	European Convention on the General Equivalence of Periods of University Study	06/11/90	01/01/91
139	European Code of Social Security (Revised)	06/11/90	
140	Protocol No. 9 to the Convention for the Protection of Human Rights and Fundamental Freedoms	06/11/90	01/10/94
141	Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime	08/11/90	01/09/93
142	Protocol amending the European Social Charter	21/10/91	
143	European Convention on the Protection of the Archaeological Heritage (Revised)	16/01/92	25/05/95
144	Convention on the Participation of Foreigners in Public Life at Local Level	05/02/92	01/05/97
145	Protocol of Amendment to the European Convention for the Protection of Animals kept for Farming Purposes	06/02/92	
146	Protocol No. 10 to the Convention for the Protection of Human Rights and Fundamental Freedoms	25/03/92	
147	European Convention on Cinematographic Co-Production	02/10/92	01/04/94
148	European Charter for Regional or Minority Languages	05/11/92	01/03/98
149	Second Protocol amending the Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality	02/02/93	24/03/95
150	Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment	21/06/93	
151	Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	04/11/93	01/03/02
152	Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	04/11/93	01/03/02
153	European Convention relating to questions on Copyright Law and Neighbouring Rights in the Framework of Transfrontier Broadcasting by Satellite	11/05/94	
154	Protocol to the European Convention on Social Security	11/05/94	
155	Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby	11/05/94	01/11/98
156	Agreement on illicit traffic by sea, implementing Article 17 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances	31/01/95	01/05/00
157	Framework Convention for the Protection of National Minorities	01/02/95	01/02/98
158	Additional Protocol to the European Social Charter Providing for a System of Collective Complaints	09/11/95	01/07/98
159	Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities	09/11/95	01/12/98
160	European Convention on the Exercise of Children's Rights	25/01/96	01/07/00
161	European Agreement relating to persons participating in proceedings of the European Court of Human Rights	05/03/96	01/01/99
162	Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe	05/03/96	01/11/98
163	European Social Charter (revised)	03/05/96	01/07/99



<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
164	Convention for the protection of Human Rights and dignity of the human being with regard to the application of biology and medicine: Convention on Human Rights and Biomedicine	04/04/97	01/12/99
165	Convention on the Recognition of Qualifications concerning Higher Education in the European Region	11/04/97	01/02/99
166	European Convention on Nationality	06/11/97	01/03/00
167	Additional Protocol to the Convention on the Transfer of Sentenced Persons	18/12/97	01/06/00
168	Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings	12/01/98	01/03/01
169	Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation	05/05/98	01/02/01
170	Protocol of Amendment to the European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes	22/06/98	
171	Protocol amending the European Convention on Transfrontier Television	01/10/98	01/03/02
172	Convention on the Protection of Environment through Criminal Law	04/11/98	
173	Criminal Law Convention on Corruption	27/01/99	01/07/02
174	Civil Law Convention on Corruption	04/11/99	
175	European Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People	11/05/00	
176	European Landscape Convention	20/10/00	
177	Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms	04/11/00	
178	European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access	24/01/01	01/07/03
179	Additional Protocol to the European Agreement on the Transmission of Applications for Legal Aid	04/10/01	01/09/02
180	Convention on Information and Legal Co-operation concerning "Information Society Services"	04/10/01	
181	Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows	08/11/01	
182	Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters	08/11/01	
183	European Convention for the protection of the Audiovisual Heritage	08/11/01	
184	Protocol to the European Convention on the protection of the Audiovisual Heritage, on the protection of Television Productions	08/11/01	
185	Convention on Cybercrime	23/11/01	
186	Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin	24/01/02	
187	Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances	03/05/02	01/07/03
188	Additional Protocol to the Anti-Doping Convention	12/09/02	



<b>ETS No.</b>	<b>Title</b>	<b>Opening for signature</b>	<b>Entry into force</b>
189	Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems	28/01/03	
190	Protocol amending the European Convention on the Suppression of Terrorism	15/05/03	
191	Additional Protocol to the Criminal Law Convention on Corruption	15/05/03	
192	Convention on Contact concerning Children	15/05/03	

## Consultation structures/cooperation mechanisms

### COOPERATION BETWEEN THE COE AND THE OSCE 'Common Catalogue of Co-operation Modalities'

#### Consultation:

- High-level informal (2+2) meetings on cooperation and political matters between the Chairperson/Chairperson-in-Office and the Secretaries General of the two organisations.
- 2+2 meetings at senior staff level.
- Meetings of the two Parliamentary Assemblies.
- Joint meetings to exchange views and experience on ways of implementing commitments and the various monitoring mechanisms.
- Ad hoc contacts and consultations between various representatives.
- High-level tripartite (CoE-OSCE-UN) meetings.
- Ad hoc practical meetings of senior staff and experts as part of the aforementioned tripartite consultations.
- Meetings on Electronic Information Exchange.

#### Participation (representation):

- Participation in summit conferences, ministerial meetings and Parliamentary Assemblies.
- CoE representation at OSCE headquarters in Vienna is based on informal arrangements.
- CoE-OSCE Liaison Officer at CoE headquarters in Strasbourg.

#### Cooperation:

- Cooperation in the field.
- Thematic cooperation on democracy, human rights (cooperation between the CoE and the Office for Democratic Institutions and Human Rights (ODIHR) and the rule of law, minorities (cooperation between the CoE and the OSCE's High Commissioner on National Minorities (HCNM), the media, economic and environmental activities and the Roma and Sinti (the CoE has a special Assembly committee on this, with the ODIHR coordinator of the Contact Point for Roma and Sinti and the European Commission participating as observers).
- Monitoring of fulfilment of commitments and election observation missions.
- Special programmes, including the Stability Pact for South-East Europe.
- Cooperation between the two Secretariats.
- Exchange of information.

### COOPERATION BETWEEN THE COE AND THE EU

#### Existing cooperation mechanisms:

- As long ago as 1974 the CoE decided to set up an EEC (as it was then known) liaison office in Brussels.
- Since 5 May 1989 there have been regular six-monthly quadripartite meetings (EU Presidency, President of the European Commission, CoE Chairmanship and CoE Secretary General).
- In November 1996 the CoE Secretary General and the President of the European Commission agreed that meetings and activities of the CM, their deputies, rapporteur groups and working groups would be open to the European Commission, at the invitation of the competent CoE bodies.
- There is cooperation on aid to new CoE member states (involving CoE expertise and EU funding) in order to consolidate political and democratic structures.
- In 2000 five new joint CoE-EU programmes were launched, including ones aimed at the Russian Federation, Ukraine and European national minorities. The EU attends CoE steering committee meetings concerning these programmes.
- There is a joint programme to combat corruption and organised crime (OCTOPUS), and the European Commission is an active member of the European Pharmacopeia and the European Audiovisual Observatory (the question of whether the EC should become a member of the CoE Development Bank is still under discussion).

#### New and future cooperation mechanisms:

- The Convention on the future of Europe (since the Laeken European Council in 2001) will be of great importance to cooperation, given the forthcoming enlargement of the European Union. The CoE Secretary General has proposed that the CoE take part in the Convention in order to make a contribution on specific issues.
- A Joint Declaration was adopted on 3 April 2001, stating that the organisations will make efforts to step up their dialogue in order to identify priorities for cooperation and joint activities relating to countries and goals.
- The CoE Secretariat will be invited on an ad hoc basis to attend meetings of CFSP working groups of the European Council on matters of joint interest.
- As regards cooperation on the matters mentioned in Title 6 of the Treaty on European Union, there is an exchange of ideas between the Article 36 Committee troika and a CoE delegation.
- The European Commission should actively participate in the Rapporteur Group on Relations between the Council of Europe and the European Union.
- In its November 1998 report, the Committee of Wise Persons proposed that a Framework Agreement be drawn up between the two institutions.

**List of abbreviations**

<b>AIV</b>	Advisory Council on International Affairs
<b>CEI</b>	European Integration Committee
<b>CM</b>	Committee of Ministers
<b>CMR</b>	Human Rights Committee
<b>CPT</b>	Committee on the Prevention of Torture
<b>CSCE</b>	Conference on Security and Cooperation in Europe
<b>CVV</b>	Peace and Security Committee
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>EEA</b>	European Economic Area
<b>EEC</b>	European Economic Community
<b>ECSC</b>	European Coal and Steel Community
<b>ESC</b>	European Social Charter
<b>EU</b>	European Union
<b>EUMC</b>	European Monitoring Centre for Racism and Xenophobia
<b>ECHR</b>	European Convention for the Protection of Human Rights and Fundamental Freedoms
<b>HCNM</b>	High Commissioner on National Minorities
<b>IGC</b>	Intergovernmental Conference
<b>NGO</b>	Non-Governmental Organisation
<b>OC&amp;W</b>	Ministry of Education, Culture and Science
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>OSCE</b>	Organisation for Security and Cooperation in Europe
<b>PA</b>	Parliamentary Assembly
<b>CoE</b>	Council of Europe
<b>UN</b>	United Nations
<b>VWS</b>	Ministry of Health, Welfare and Sport

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