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THE ENLARGEMENT OF THE COUNCIL
OF EUROPE AND ITS ROLE

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Abstract

The changed political landscape of Europe in 1989 posed the Council of Europe with the challenge to redefining its role. Since then, the Council of Europe has enlarged both its membership and its functions. From a mere 'club' of democratic states mainly concerned with the protection of human rights, the Council of Europe converted into a 'school of democracy' adopting the mission of building democracy in East and Central Europe. To this end, it has enlarged its membership to include these countries. The unavoidable price of lowered admission criteria will not damage the image and credibility of the organization if the implementation of commitments is given a greater priority by the Council of Europe.

Introduction

For centuries Europe was like a free-floating concept hard for geographers to pin down. Only after the Second World War it came to mean something definite when its leaders set out to bring peace, stability and prosperity to a continent torn by conflicts. This view for new Europe, however, acquired its full significance only after 1989 when East-West division was brought to the end. The last ten years have seen great upheavals in the European continent. This was “a decade which made history” (Klebes 2001).

The Council of Europe (COE) has undergone profound changes over the last twelve years. These changes are conditioned mainly by continuous enlargement of its membership: in the period from 1989 to 2001, the number of the COE member states grew from 23 to 43. This last wave of enlargement occurred due to the fall of communist regime and the emergence of newly independent states in Eastern and Central Europe, and the Former Soviet Union.

Notably, the COE’s admission criteria of human rights, democratic governance, and the rule of law are observed to be ‘loosened,’ up to the point where the mere acceptance of these principles would serve sufficient basis for admission. Moreover, many of the newly admitted countries fail to observe their commitments even after acceptance.

The enlargement of the COE, which now covers almost the entire continent, makes it compulsory to redefine the new role of the Council. The increase in the number of the members made necessary the enlargement of the COE functions, as well. Especially, its conversion from a ‘guardian’ of democratic principles to a ‘teacher and trainer’ of democracy is pointed out. The COE enlargement also brought about changes in its

structure which resulted in reorganizing existing bodies and establishing new institutions in order to better address emerging problems.

The rapid geographic enlargement of the COE after the fall of the Berlin Wall provoked a debate in the COE bodies, as well as in the media, on whether the Council would cease to represent a “community of values” by admitting states where democracy was not yet established. The states of the former communist bloc did not measure up to the standards regarding protection of human rights, the rule of law and pluralistic democracies. For this reason, many critics feared that rapid expansion would be damaging to the Council’s integrity and credibility (Klebes 2001).

Many of the new applicants are argued to have purely realpolitikal aims, namely exploiting the COE as a channel to the European Union (EU) and the North Atlantic Treaty Organization (NATO). In this connection there is a changed perception of the organization by the international community. On the other hand, the COE itself, faced with the problem of enlarged functions, is in the process of reforming its relations with other European organizations and rethinking its place and role in the world politics in general.

Notably, along with the COE, other international organizations such as the United Nations (UN), the Organization of Security and Cooperation in Europe (OSCE), and the European Union are also concerned with the so called ‘three pillars’ of western civilization: democratic governance, human rights and the rule of law. And although each of these organizations has different mandates and techniques to deal with these concerns, in some respects their functions and roles overlap.

Given all these considerations, it is of great academic interest to investigate the impact of the major changes the organization has undergone since 1989. In particular, it is of great importance to find out the extent to which the presumably lowered admission criteria have affected the organization's role and effectiveness as perceived by both the international community and the organization itself.

I. Research Design

Purpose: The purpose of this research is to study the dynamism of the role of the Council of Europe in the recent decade. In particular, it seeks to examine enlargement processes, any trend in the changed admission criteria and in the implementation of commitments by newly admitted member states.

Research Questions: The following questions underlie the research:

1. To what extent does the COE official policy reflect a change of the COE doctrine from “community of values” to “school of democracy”?
2. How have the admission criteria changed since the adoption of the enlargement policy since 1993?
3. How much are the commitments implemented by the newly admitted states?
4. In what ways has the role of the COE changed in the recent decade?

Methodology: The research is descriptive. The study is conducted by the method of the comparative analysis of the COE documents, as well as historical and archival research. The comparative analysis of the COE documentation includes the Committee of

Ministers documents such as resolutions, decisions, and final communiqués of sessions; the Parliamentary Assembly documents including the Monitoring Committee Opinions and Secretary General’s official position expressed in speeches and declarations. Special cornerstones for analysis are the Vienna Declaration adopted in 1993 Vienna Summit and the Final Declaration adopted in 1997 Strasbourg Summit.

The assessment of the implementation of commitments is based on Rapporteur Groups and Monitoring Groups conclusions, as well as on factual historical data. The study of the changed role of the COE is based on the changes of this role, as they are perceived by the COE, as well as by other international organizations and world politics as a whole.

II. Literature Review

The Council of Europe (COE), the oldest international organization of democratic nations in Europe, acquired a new role in the 1990s. As it had been foreseen by its founders, the COE was about to become a truly pan-continental European organization open to the accession of the former communist states for Central and Eastern Europe (Klebes 2001).

However, the process of enlargement has arisen questions in academic circles whether the COE would continue to be a community of values or if this community would be “progressively diluted as a result of too-rapid enlargement” (Klebes 2001).

There is a supported view that the COE “first 40 years of impressive achievements were a dress rehearsal for its major role to come” (Pinto 1993, 39). The demise in Eastern Europe suddenly transformed the COE’s program of fostering democratic pluralism, human rights, and social and cultural cooperation into a matter of crucial priority. The main rationale of the policy of enlargement was that the idea of democratic security: without pluralist democracy, respect for human rights, and the rule of law in all parts of Europe there will always be a risk of new confrontations (Tarschys 1997).

In 1990, the COE Secretary General Catherine Lalumiere argued that the COE had a valuable role to play particularly in Eastern Europe. The COE could make a great contribution to stability in the region by promoting pluralist democracy, human rights, and the rule of law. Thus, it would complement the potential military and economic benefits of partnership with other international organizations (Wolt 1999). Hereby, the idea of the already existing comparative advantage and the division of labour of European organizations was suggested. In this line, the COE had to take up the task of achieving stability and security in Europe by civilian means (Tarschys 1997).

Tarschys suggested that it was better to accept new members on the basis of their commitment to meeting the COE standards. He held that ones an acceptable level of democratic development had been attained membership should follow because inclusion was “far preferable to exclusion” (Tarschys 1997).

However, Wolt holds that the support for the COE enlargement and its political mission is motivated not only by the desire to influence post-communist political development. He argues that there has been a good deal of realpolitik involved in the admission process (Wolt 1999).

Wolt also argues that the COE enlargement has been swift and comprehensive and has given rise to new challenges and problems for the organization. A criticism has been made that the principles of the COE have suffered by the influx of new members (Janis 1997). As Wolt notes it is beyond dispute that “the implicit lowering of the admission criteria... has allowed in countries with dubious political, legal and human rights practices... Albania provides a case in point” (Wolt 1999, 153).

Rapid geographic enlargement and the loosening of the admission criteria have exposed to criticism the organization’s claim to be a defender of democracy, the rule of law and human rights (Wolt 1999).

III. The Debate on Enlargement: “Community of Values” vs. “School of Democracy”.

The Council of Europe’s rapid geographical enlargement after the fall of the Berlin Wall provoked a wide debate in the council’s statutory bodies—the Committee of Ministers and the Parliamentary Assembly—as well as in the Secretariat and in the media. The question was whether the Council of Europe would cease to represent a community of values by admitting states whose internal order did not conform with the standards and practices of established democracies (Klebes 2001).

After 1989 revolutions in Central and Eastern Europe, the organization was faced with the problem of dealing with applications for membership from a number of formerly communist states.

Those who feared the enlargement of the COE to the Central and Eastern Europe argued that the Council of Europe was founded in 1949 to promote and protect the rule of law, human rights, and fundamental freedoms, and to provide an institutional framework among the countries of Europe for common action “to achieve greater unity between its Members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage.” In the words of the statute’s preamble, the council was created to enhance the community of “the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty, and the rule of law, principles which form the basis of all true democracy.”

In the forty years from its founding to the collapse of the Soviet Empire between 1989 and 1991, the Council of Europe had admitted thirteen more members, incorporating every independent state in Europe, except those of the Soviet bloc and Andorra (and Monaco, to the extent that it can be considered a sovereign state). During this period, admission was a relatively uncomplicated process, requiring an opinion of the Parliamentary Assembly and a formal invitation by the Committee of Ministers. According to statutory law, if a state were “able and willing” to accept the principles of the Council of Europe and work towards its goals, it could be invited to become a member.

The expansion of the Council of Europe to include the countries of Eastern and Central Europe made the admission process far more intricate, as the incorporation of the former communist states presented a unique set of problems. These countries had only just begun the process of democratization and did not measure up to the standards regarding protection of human rights, the rule of law, and political pluralism. Even when

their legal and constitutional orders reflected democratic principles, they lacked the support of a civil society to make them truly effective (Klebes 2001). Perhaps no one better explained the problem than Sergei Kovalev, Russian president Boris Yeltsin's former human rights adviser, when he spoke before a joint meeting of several committees of the Council of Europe's Parliamentary Assembly on January 30, 1995 on the situation in Russia:

[T]he cause lies not only, or not so much, in ill will on the part of the authorities, whether local or federal. Nor does the problem lie merely in unsatisfactory laws. It is rooted above all in the extremely low level of legal awareness both of authorities and of the people. After all, what is the point of proclaiming civil rights and freedoms in the constitution if the people are incapable of asserting them and unaccustomed to doing so? What purpose is served by good laws if the individual citizen is not prepared to obey them? What is the point of reforming judicial procedures if people prefer not to go to the court but to defend their interests through other, often criminal channels? It will take years of intensive work before the majority of the population arrives at the necessary level of legal awareness¹.

Thus, despite an obvious thirst for democracy after so many years of totalitarian rule, the reforms they had already undertaken, and their desire to join Western organizations, the countries of Central and Eastern Europe were not and could not immediately be considered part of the European community of values represented by the council. As a consequence, many critics believed the prospect of rapid expansion would be damaging to the council's integrity and credibility. Hasty enlargement, they argued, would dilute the community of values that the council was designed to preserve and to promote.

These concerns are certainly not unfounded. One can assume that in the enlarged Council of Europe, the overall degree of observing democratic standards, though formally accepted, is lower now than before enlargement. Only the future will show if this situation is limited to a period of transition or will endure and have repercussions in the older member countries (Klebes 2001).

¹ Council of Europe, Doc. AS/Pol (1995) 6.

In contrast to what might be called the “orthodox purist” notion of the council’s purpose, others argue that the Council of Europe should be viewed as a school of democracy, transmitting democratic values and encouraging the practice of democracy in states where it is not well established. For example, despite his critical evaluation of the situation in Russia and the fact that he had fallen out with Yeltsin, Kovalev pleaded for his country’s admission, believing that membership would speed up Russia’s democratic transition. Proponents of this school of thought reasoned that the community of values was a principle and objective in the Council of Europe, but that it had never been a rigid doctrine. Time and again, the council admitted new states whose internal democratic order was not perfect. Countries that were in most ways solidly democratic, such as Switzerland and Liechtenstein, joined the council at a time when women were still deprived of the right to vote. Upon membership in the council, both fulfilled their pledge to remedy this situation in a short time (Klebes 2001).

Portugal was admitted in 1976 with a constitution that would certainly be unacceptable for a new member state today. Its contents had been strongly influenced by the left-wing forces that played a major role in the 1974 Carnation Revolution. Thus, the preamble fixed the establishment of a “socialist society” as an objective of the new republic. Article 82 permitted expropriation without compensation (contrary to the Protocol No. 1 of the European Convention on Human Rights). Above all, Articles 142–149 allowed a revolutionary council of military officers to veto any laws adopted by the country’s legislature. In the subsequent revisions of the constitution, all the objectionable provisions disappeared. These examples suggest that it is better to integrate “imperfect”

candidates for membership and engage them in constructive dialogue than to exclude them.

This argument could be supported by maintaining that both Switzerland and Liechtenstein—despite their limited suffrage—were solidly democratic countries, and that council membership encouraged them to extend the voting right to women. The situation in Portugal was probably more serious, at least for a while. In any case, there is no common measure between these problems and the kinds of challenges the Council of Europe faces today. Yet there is a psychological aspect to this debate: The newcomers from Central and Eastern Europe should know that “Westerners” who joined earlier were also subject to scrutiny. Perhaps there is an unspoken hope that if, under the pressure of the Parliamentary Assembly, new member states accept standards not yet recognized by older member states, the latter will follow in due course (Klebes 2001).

Protagonists of the school-of-democracy concept consistently maintain that the basic legal standards of the Council of Europe have not been lowered to admit the emerging democracies in Central and Eastern Europe. The statutory rules have not been changed. Rather, partly in response to this concern, additional membership conditions were developed and imposed on candidate countries according to their specific situations. Such conditions commit new member states to undertake reforms, with the assistance of the Council of Europe, to bring their legal, political, and social systems in line with the council’s standards. In such a way, the council will place the new member states in an institutional framework for constructive engagement, allowing the council to convey democratic know-how and evaluate progress.

Though not formally enshrined in a Council of Europe document, the school-of-democracy concept can now be considered the council's official doctrine, supported by the Committee of Ministers, the Parliamentary Assembly, and the secretary general. This doctrine is implicit in the council's decisions to extend membership to former communist states in Central and Eastern Europe between 1990 and 2001, as well as in its programs of assistance and cooperation (Klebes 2001).

The enlargement of the COE since 1989 may be said to have undergone three stages. The first stage of this process mainly consists of exchange of information with Eastern Europe and former Soviet Union. This allowed growing awareness of one another's existence. It permitted the post-communist regimes to discover the COE's principles and programs and enabled the council to take stock of the widely different political and social situations these newly independent states faced.

The second stage closely followed the first one when the Council launched a wide range of cooperative projects designed to help the nascent democracies consolidate political pluralism and establish the rule of law. Help was also offered in laying the foundations for the democratic separation of powers while protecting the human rights and legitimizing non-political institutions. Intensive training of the countries' future leaders in all fields has accompanied these structural transformations (Pinto 1993).

The third stage is carried out when the countries that have special guest status are deemed by the Parliamentary Assembly and the Committee of Ministers to have sufficiently implemented the Council's democratic principles to be granted full membership and to participate in all the Council's programs and activities.

In about ten years, this three-stage process might be said to have been successfully completed. The first stage of stock-taking was completed in about 1993. By that time, the COE had become a well-known and respected institution for democratic reformers, not only throughout European continent but also in the Caucasus and the Asian republics of the former Soviet Union. The Council, as the only pan-European institution such countries could aspire to join one day, was increasingly approached for advise, guidance, training and cooperation.

The second stage of cooperation has been in full swing since 1993 and can be considered as almost completed. Every country in the former East bloc, whether a full member or a guest, was asking for the Council's assistance. The Council's activities cover all aspects of possible assistance, from advise on how to make a country's constitution compatible with the European Convention on Human Rights to training seminars and workshops on running non-governmental organizations.

Although the third stage of admitting new countries for membership has already begun, the second stage of cooperation and assistance is simultaneously carried out. The third stage involves evaluating countries democratic intentions and measuring its tangible accomplishments in the field of human rights and democratic pluralism, while also taking into account the inevitable "stumbling blocks" that still separate it from its Western European counterparts (Pinto 1993, 42). The Council of Europe perceived the admission of new members as a way of positively locking these new countries into an intergovernmental democratic network so as to affect constructive democracy building.

The proponents of the policy that the COE should admit members not fully meeting up to the standards of established democracies argued that the COE must set the

standards that will then spill over from the more established democracies to the latest 'recruits', while also keeping in mind that no nation is immune to the seeds of intolerance and racism. This view was consistent with the ideal of creating a democratically secure Europe. The rationale underlying this argument was that exclusion of European countries that did not measure up with all of democratic requirements would eventually bare much greater risks to European security, than their inclusion into the organization and engaging them into a constructive transformation of political and social institutions.

Thus, summing up it might be said that the internal debate over the enlargement of the COE has come to its close in favour of the debate on the organization as a "school of democracy." As of today, the Council has already transformed itself from a closed, somewhat theoretical, values-oriented Western democratic "club" into a dynamic pan-European organization.

IV. Comparative Analysis of Admission Criteria: New Trends

In order to assess the extent to which the presumably lowered admission criteria have affected the changed perception of the role of the Council of Europe, it is necessary to compare and analyze these admission criteria for each of the newly admitted member state since 1989. The present research has completed these analyses in chronological order with the view to find out certain trends of any changes in admission criteria.

Because the Council of Europe was conceived from the outset as an association of democratic states, it became a kind of repository of democratic values in Europe. Unless Europe's institutional landscape changes radically some day—which would be the case if and when the European Union (EU) extends across the entire continent—the Council of Europe will remain the widest European intergovernmental organization. In short, the Council of Europe represents a kind of continental consensus on democratic standards.

The closest thing to an operational definition of democracy in Europe emerged from the first Strasbourg Conference on Parliamentary Democracy held in 1983². The conference unanimously adopted the Strasbourg Consensus, which enumerated the indispensable ingredients of a genuine democracy:

Human freedom and human dignity, freedom of speech, freedom of thought and freedom of conscience, the right to criticize and the right to freedom of movement are indispensable foundations of human co-existence. Their protection and enhancement are central to all action by the state.

This protection is served by:

- the citizen's right to choose and change government in elections conducted under universal suffrage and by secret ballot,

² The conference was organized by the COE in cooperation with the European Parliament and the parliament of the major non-European democracies of the time.

- the responsibility of the executive to the elected representatives of the people,
- the right and duty of those elected representatives to regulate life in society by means of laws and to control the executive.

A democracy is an open society in which all state power is derived from the people. This implies:

- the right to participation and consultation in political decision making at the local, regional and national level.
- free access to information and free choice between different sources of information,
- the freedom of the press and the media,
- the freedom to form political parties and to stand for political office,
- freedom of association, including the right to form trade unions,
- the right to participate in the determination of working conditions,
- freedom from slavery and the exploitation of human labor.

Democracy guarantees human dignity. This implies:

- the right to life, liberty, and respect for the human person,
- freedom of speech, thought, and conscience,
- freedom of religious observance,
- free movement of persons, goods, and information,
- the right to school and post-school education, preparing the individual for life in a democratic society.

The dynamic process of defining democracy continues as new states from Central and Eastern Europe are incorporated into the “family of democratic nations.” However, along with the practical necessity to perceive democracy as dynamic and flexible, there is a strong need to critically examine the possible loosening of the concept of democracy by the COE policy of enlargement up to the point where the dividing lines between democracy and non-democracy are actually blurred.

The first East European state to make known its wish to join the Council of Europe was Hungary. As evidence of its intent to distance itself from the Soviet bloc, Hungary could point to its unsuccessful armed uprising against the Soviet Empire in 1956. Then, in the autumn of 1989, Hungary broke the law of the “Community of Socialist States,” when the Hungarian and Austrian foreign ministers jointly set out to cut the barbed wire dividing East and West at the border between the two countries and let thousands of East Germans flee to West Germany via Hungary and Austria. Hungary held free and fair elections in March–April 1990, and in November 1990, Hungary became the first former communist country to join the Council.

Poland was disappointed to have been bypassed by Hungary, considering that the Solidarity movement, founded in 1980 and crushed by General Jaruzelski in December 1981, entitled Poland to be the first to join the Council of Europe. Polish disappointment grew when, in February 1991, following free and fair elections in June 1990, the Federal Republic of Czechoslovakia became the second ex-communist member state of the Council of Europe. In October 1990, the council’s Parliamentary Assembly had recommended to the Committee of Ministers that Poland be invited to become a member as soon as free general elections were held. Indeed, after the July 1989 elections, only the Polish Senate (where Solidarity had obtained an overwhelming majority) could be considered democratically elected. In the National Assembly, 40 percent of the seats had been reserved for the Communist Party, in accordance with an agreement between Lech Walesa (then the leader of Solidarity) and Interior Minister General Kiszak. Following new general elections, Poland became the third member from the East in November 1991.

After some discussion, Bulgaria was admitted in May 1992. One year later, three new members joined the council the same day: Lithuania, Slovenia, and Estonia. In these three cases, the countries accepted the classical references to Article 3 of the statute and the willingness to “cooperate sincerely and effectively in the realization of the aim of the Council of Europe.” They promised as well to sign and ratify the ECHR, including the formally optional clauses in Articles 25 (right of individual petition) and 46 (jurisdiction of the court). Further, the council’s opinion on Lithuania insisted on the importance it attached to the principles enshrined in the council’s Charter of Local Self-Government—a reaction to clashes between the central government and the city council of Vilnius³.

It might be said that having admitted the first four Eastern European countries of Hungary, Czechoslovakia, Poland and Bulgaria, the COE allowed loosening of requirements to the point when the three states of Lithuania, Slovenia, and Estonia were admitted making references to Article 3, that is by expressing *willingness* to “cooperate sincerely and effectively in the realization of the aim of the COE.” Starting from this face of enlargement, the COE made almost a customary law the requirement of signing and ratifying the ECHR including Articles 25 and 46. Estonia joined the COE on May 14, 1993. In its resolution closing the monitoring procedure, the assembly nonetheless mentioned some serious and on going problems with three aspects of Estonia’s political and legal system: the detention of refugees and asylum-seekers; the treatment of members of the “nonhistoric” Russian-speaking minority; and the “deplorable” conditions of prisons and detention centres.

Having “divorced” on December 31, 1992, the two federated republics of the Federal

³ For more details, see the report of the Political Affairs Committee, Doc. 6787.

Republic of Czechoslovakia—the Czech Republic and Slovakia—separately became members in June 1993. In both cases, the assembly insisted on the respect of minority rights, in accordance with its proposal for an additional protocol to the ECHR, in addition to the “classical” conditions and the prospective members’ promise to sign and ratify the convention.

The admission of Romania, whose membership in October 1993 brought the number of Central and Eastern European states admitted during that year to six, proved to be much more controversial. The admission was warmly supported by France, which saw Romania as an outpost of Latin civilization and an ally in the defence of “Francophonie.” Indeed, for Romania’s educated classes, French had traditionally been the first foreign language. Other Latin countries, like Italy and Spain, also gave strong support to Romania’s accession. In the end, a large majority of the assembly’s members voted for a favourable opinion on Romania’s membership. However, a long list of specific commitments by Romania and expectations expressed by the assembly was included.

Many parliamentarians expressed their uneasiness on Romania’s membership, asking themselves if the admission of that country had not been premature, if democratic reform had gone far enough. The European press was generally critical. Subsequent monitoring reports confirmed that democratic institutions in Romania required further consolidation. Most observers would agree that the election of Emil Constantinescu in 1996 to succeed President Ian Iliescu (an ex-Communist who had become an opponent of Ceaucescu before the latter’s summary trial and execution in December 1989) constituted a positive development. Actually, the case of Romania continued the trend of loosened criteria:

Romania was admitted on the understanding that it would complete certain reforms within given time limits, i. e. on its mere agreement to fulfil its commitments.

After a temporary interruption in the enlargement process, 1995 again saw admission of five new members. In February, Latvia was finally admitted, two years after the two other Baltic states. The main reason for the delay, despite the confidence and sympathy this small country enjoyed, lay in the protracted discussions on its new law on citizenship, considered unfair to the country's ethnic Russian community and other minorities. It has been argued —not without justification—that on the question of citizenship, the Council of Europe and Organization of Security and Cooperation in Europe's human rights commissioner have treated Latvia much more severely than the Czech Republic. Again, this new member was admitted with a long list of specific commitments to undertake democratic reforms.

In July of the same year, Albania and Moldova were admitted. Once more, the process was not without hurdles, as indicated by the length of the assembly's opinions to the Committee of Ministers (188 and 189), with very specific indications and commitments on necessary reforms. The Moldovan case was further complicated by the problem of Transdnier, the ethnic Russian enclave, which still awaits a satisfactory solution. Under the rule of Igor Smirnov, Transdnier constitutes a relic of totalitarian communism⁴.

Regarding Albania's membership, the suspense continued until the very last moment. It was late in the night of June 26, 1995, when Speaker Arbnori agreed with the Swiss rapporteur of the Parliamentary Assembly to sign the commitments, which were included

⁴ See Wall Street Journal, July 8, 1997.

the next morning in the text to be voted on by the assembly. Three years later—confronted with a still chaotic situation in Albania and the international community’s inability to resolve it—*one cannot escape the conclusion that Albania’s admission was premature*. It seems that too much confidence was placed in President Berisha’s image as a committed democrat, but his personal charm was not lost on many politicians of the Council’s older member states. Events also have shown that the Council of Europe alone is not in a position to master such situations.

Macedonia and Ukraine joined the council in November 1995. Again, long lists of commitments and expectations were included in the assembly’s Opinions 190 and 191 on the countries’ membership. For Macedonia, with its multiethnic composition, minority rights were a particular issue. The opinion on Ukraine took note of reform measures promised by the Ukrainian authorities (such as the preparation of a new constitution and a series of legal and judicial reforms) and Ukraine’s commitment to sign and ratify a number of key conventions, including the abolition of the death penalty, the anti-torture convention, the Framework Convention for the Protection of National Minorities, and the Charter of Local Self-Government.

Whether or not to invite Russia to become a member of the Council of Europe was no doubt the most difficult decision in the organization’s history. However, the Soviet Union had already staked an informal claim as early as 1989, when Gorbachev prepared to visit the council. On the same occasion, the director general for security and cooperation in Europe declared the Soviet Union’s “readiness” to adhere to the ECHR. In the summer of 1989, the USSR Supreme Soviet was granted the newly created special guest status in the Parliamentary Assembly, a status the Russian Federation inherited. Whereas the latter

applied for full membership in May 1992, the procedure progressed slowly for two main reasons.

First, the Council was divided on the question of whether Russia should be a member at all. A former president of the assembly had summed up this quandary with the phrase “part or partner?” In other words, should Russia be integrated into the Council of Europe as a full member, or should some kind of cooperative relationship be established? In the beginning, a number of member states, such as the Netherlands and countries that had suffered under the Soviet Empire—like Estonia and the Czech Republic—expressed opposition. Others were half-hearted in their support, and many diplomats expressed their anxieties behind the scenes. However, it soon became clear that the major member states, among them the “Big Four” (France, Germany, Italy, and the United Kingdom), wished the council to admit Russia for overriding political reasons. Russia could not, at least for a very long time, become a member of the EU or NATO, but it was important to link that country firmly to Europe. The council of the EU also appealed to the Council of Europe to admit Russia “as soon as possible.”

Second, it was obvious that Russia’s internal legal order did not meet the Council of Europe’s standards. Given the sheer size of the country and the central government’s insufficient control over its distant republics, it was clear that it would take a very long time before Russia could meet those standards. Indeed, the distinguished lawyers mandated by the Parliamentary Assembly to examine the country’s conformity with council standards concluded in October 1994 that, “the legal order of the Russian Federation does not, at the present moment, meet the Council of Europe’s standards as enshrined in the Statute of the Council and developed by the organs of the European

Convention on Human Rights and Fundamental Freedoms.” However, they added that they “were, of course, not asked to utter an opinion on the political question whether the Russian Federation should be admitted to the Council of Europe ...”⁵.

Following the report, President Boris Yeltsin took the unprecedented step of sending the presidential chief of staff to Paris to meet the assembly’s president and hand him a reaction to the report—not to refute the lawyers’ conclusions, but to enumerate the measures Russia was undertaking to meet the Council of Europe’s standards.

When Russian armed forces intervened in Chechnya, the council’s member states, like most other Western governments (including the United States) were very careful in expressing their official opinions about the legality of the intervention. Indeed, some Western countries were wary about the possibility of secessionist movements within their own borders. Therefore, criticism of Russia’s action focused exclusively on massive violations of human rights, which—unlike Moscow’s actions to prevent secession—were not an internal affair. The admission procedure was interrupted in February 1995, but resumed in September of the same year on the grounds that Russia was henceforth committed to finding a political solution.

Governmental pressure in favour of Russia’s admission continued. Some of the assembly’s parliamentarians admitted this during the January 1996 plenary debate. Others indignantly rejected the notion that a member of parliament could be pressured by the executive. However, this may be, on January 25, 1996, the Parliamentary Assembly adopted by a large majority Opinion 193 in favour of Russia’s membership. Not surprisingly, the opinion is the longest ever adopted by the assembly. It enumerates

⁵ See Council Document AS/Bur/Russie (1994).

measures of legal reform and other steps taken by the Russian Federation in the direction of democracy, followed by a list of twenty-five precise commitments by the Russian authorities.

The next country to be admitted was Croatia. Its application led to another very controversial discussion in which the Austrian and German delegations were Croatia's strongest, if by no means uncritical, supporters. Criticism centred on President Tudjman's autocratic tendencies, restrictions on the freedom of expression, interference in the autonomy of local authorities, human rights violations against non-Croats, and lack of cooperation in the implementation of the Dayton Accords. Opinion 195, adopted in April 1996, contains twenty-one commitments by the Croatian authorities, to which is added a list of further expectations of the assembly. The case of Croatia is interesting in that, contrary to normal practice, the Committee of Ministers did not issue an invitation at the earliest opportunity following the assembly's opinion. The committee had serious doubts, shared by the council of the EU, about the democratic character of the Croatian regime. In May 1996, the assembly joined the ministers' position and declared that shortly after the adoption of Opinion 195, the behaviour of the Croatian government indicated that it did not take its commitments seriously (Res. 1089, 1996). The Committee of Ministers decided to consider the matter again in the autumn. Croatia's admission finally took place in November 1996, but there is continued concern about the democratic progress of this country.

The case of Belarus is shelved for the time being following the suspension of its special guest status. Until genuine democracy appears in what remains of Yugoslavia (Serbia and Montenegro)—and the brutally repressive policy, notably against the

Albanian minority, is abandoned—membership of that state cannot be seriously considered, no matter how far one stretches the interpretation of Article 4 of the statute and the council’s “school of democracy” role. In the Yugoslav case, the council’s democratic credibility is at stake. Thus it came as a surprise that Yugoslav president Slobodan Milosevic dispatched Deputy Foreign Minister Brankovic to Strasbourg on March 19, 1998 to hand the council’s secretary general a formal letter of application.

The last three states admitted by the COE are the three Transcaucasian republics of Georgia, Armenia and Azerbaijan. There seemed to be a tacit agreement that they should all join at the same time, even if the official policy was that every country should be admitted on its own merits. It was Turkey’s position, in particular, that there should be no discrimination between Armenia and Azerbaijan in terms of membership criteria. Both hoped to accede to the Council of Europe in 1997, but neither was ready yet in democratic terms.

Armenia and Azerbaijan applied to join the COE and were given special guest status in 1996. There have been much concerns that both Armenia and Azerbaijan should be admitted together so as not to give one advantage over the other and in regard to the peaceful resolution of the Nagorno-Karabakh conflict. The rationale was that their simultaneous admission would accelerate the process of resolution by intensifying contact and encouraging dialogue between them. In November 2000 both Armenia and Azerbaijan were invited to join the organization. In January 2001, they became the forty-second and forty-third member states respectively. From the post-communist countries they became the eighteenth and nineteenth countries leaving behind them only two countries with special guest status: Bosnia, Herzegovina and Federal Republic of Yugoslavia.

The Armenian Parliament obtained special guest status with the Parliamentary Assembly of the COE on 26 January 1996. This application was considered in the light of the adoption of Recommendation 1247 (1994) on the enlargement of the COE, in which the Assembly stated “In the view of their cultural links with Europe, Armenia, Azerbaijan and Georgia would have the possibility of applying for membership provided they clearly indicate their will to be considered as part of Europe” (see Appendix D).

PACE Draft Opinion concluded that: “The Assembly considers that Armenia has a democratic, pluralist society, in which human rights and the rule of law are respected, and, in accordance with Article 4 of the Statute of the Council of Europe, is able and willing to pursue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe.”

As a part of the accession procedure the Bureau of the Assembly asked “eminent lawyers”, Mr. Jersy Makarczyk, judge of the European Court of Human Rights, and Mr. Daniel Svaby, member of the European Commission of Human Rights, to draw up a report on the conformity of the Armenian legal system with the standards of the COE. They visited Armenia from 4 to 8 February 1997 and concluded that: “Armenia is on the right road towards democracy, but that only after completion of the reform of the judicial system which the Constitution provides for and which we have mentioned in this report will we be able to say that Armenia’s domestic legal system is compatible with the council of Europe’s standards in the human rights field.”

The Explanatory memorandum, by the Rapporteur took the view that the legislative basis for the rule of law was in place. The Rapporteur considered that although progress still needs to be made, the Armenian authorities have demonstrated their firm

commitment to ensure the respect of human rights at COE standards. Similarly, they have shown themselves to be receptive to the criticism made by both the COE and the NGOs. In this connection mention should be made of their willingness to cooperate, for example, with Human Rights Watch, whom the authorities even asked to act as consultant to help find solutions to the outstanding problems. Again, the creation by presidential decree of a human rights committee to advise the authorities on this subject, and the preparation of a law on the ombudsman are further steps in the right direction.

Overall, the Rapporteur stressed that since the beginning of the accession procedure Armenia has made very considerable progress, whether in setting up a pluralist political system, establishing the rule of law, or observance of human rights and fundamental freedoms.

Although the COE recognized considerable progress in democratization in Armenia, findings of independent comparative research implied a different conclusion. Thus, the research done by Nations in Transit (1999-2000) shows that Armenian democratic transition has been in regress. The presidential elections of September 1996 were observed by the OSCE, which severely criticized and concluded that the irregularities observed placed a question mark on the validity of the elections. The conclusions made by the COE observers in 1999 elections were that there was a significant advance and an overall democratic progress in the country. However, the independent research noted above refutes this conclusion.

The Parliament of the Republic of Azerbaijan obtained guest status with the Parliament Assembly of the COE on 28 June 1996. This application was considered in

the light of the adoption of Recommendation 1247 (1994) on the enlargement of the COE.

As noted above, Azerbaijan became a member in January 2001 together with Armenia. Although as in the case of Armenia the Explanatory memorandum as well as the conclusions of the report by the eminent lawyers stressed a considerable progress in setting up a democratic system, the deficiencies and inconsistencies found between the legal order of Azerbaijan and the COE standards are far more salient than in the case of Armenia. They identified a number of areas in which the internal legislation or practice does not meet the COE standards. The separation of powers was not respected throughout the legislation and in practice and there was a certain lack of balance between the powers of the executive on the one hand and the legislative and judicial on the other. More importantly, most of the relevant pieces of legislation were found to present one major default: the text frequently contained cross-references to other either undefined or future legislation, which makes the meaning of the law imprecise or delays its practical effect. The eminent lawyers were of the opinion that this was not simply a problem of legislative technique or drafting. It raised a fundamental issue concerning respect for the rule of law.

Admission process of the two republics of Armenia and Azerbaijan shows that a strong factor for the admission of Azerbaijan was the consensus within the COE that the admission of both of the republics simultaneously would be conducive to the peaceful resolution of the Nagorno-Karabakh conflict. Another strong factor was the political pressure of Turkey in favour of Azerbaijan's membership. Not less important was Azerbaijan's geopolitical position as one of the three Transcaucasian republics and its commitment to join in a regional political dialogue.

In relation to evaluating the official decision of the COE for admission of each of the countries, of special significance is the very process of decision-making on admission within the organization.

A prospective member will normally make inquiries before submitting a formal application, to ensure that it will not be rejected outright. The application letter is addressed to the secretary general, who forwards it to the Committee of Ministers. In the past, the committee immediately transmitted it to the assembly for opinion. In recent years, it has become the practice for the Committee of Ministers to proceed to a preliminary exchange of views, after which it may communicate to the assembly some basic considerations on matters it wishes explored. Although the assembly's opinion is not legally binding, it does have political significance. There is now general agreement that the Committee of Ministers would not invite a state to become a member against the Parliamentary Assembly's will⁶.

In preparing its opinion, the assembly will consider the internal legal and political order of the candidate state in relation to council's standards. The first step is to appoint a group of eminent lawyers to undertake a legal appraisal. This step was introduced at the suggestion of the Russian special guest delegation when the council began considering the membership applications of the three Baltic countries. The Russian delegation maintained that these states, especially Estonia and Latvia, violated the human rights of their Russian minority communities and suggested that this situation be examined before the council proceed any further with the admission procedures. The assembly followed this suggestion by appointing for each of these states a team consisting of one member of

⁶ See Heinrich Klebes, "Draft Protocol on Minority Rights to the ECHR," Human Rights Law Journal 14 (1993): 142

the Court and one member of the Commission of Human Rights (who acted more in a personal capacity). The method has since been applied to all candidates—including Russia, for which a team of six judges and commissioners was appointed.

On the basis of the legal experts' report, the assembly rapporteurs continue their work. On average, the procedure takes two years, sometimes longer, as in the cases of Russia and Romania. When the competent committees (now the Political and Legal Affairs Committees) come to the conclusion that membership can be recommended, they prepare a draft opinion, which requires approval by a two-thirds majority in plenary session.

The opinion first evaluates the country's internal situation, including steps taken to adapt to Council of Europe standards (for example, free and fair elections, constitutional and legal reform, and accession to key conventions). In the past, the opinion then simply concluded, in the terms of Article 4 of the statute, that the applicant state was considered "able and willing to fulfil the provisions of Article 3" (that is, the basic membership conditions). Only occasionally, as in the case of Liechtenstein, did the assembly express additional expectations.

Our historical analysis of the enlargement process since 1989, in the cases of admission of each of the countries has shown that the eventual decision on whether to admit or not admit a country is the outcome of the three of the following factors: the extent to which a country's democratic record corresponds to the COE democratic requirements; the extent to which the COE, notably its Western European members are politically interested in linking a country to Europe; and the extent to which a country is insistent and willing to join.

The first of these factors is notably a strong basis for debate mainly in the PACE where there is the continuous pressure by those parliamentarians who are proponents of the COE as the “community of democratic states.”

The second factor is the concern of the European governments, especially those of the so-called the “Big Four” (France, Germany, Italy, and the United Kingdom). It finds its expression in the Committee of Ministers pressure on the PACE in relation to decisions on admission of a country. The case of Russia is illustrative in this case.

The last factor, that is insistence and willingness of applicant countries, has also played a certain role in the outcome of the decision in such case as that of Russia.

The overall comparative analysis of the admission cases shows that undoubtedly there is a visible trend of lowered admission criteria. Starting from the admission of Estonia, Lithuania and Slovenia, the lowered trend manifested itself in that these states were admitted on the mere basis that they expressed the commitment and willingness to democratic institutions. Later on, the admission of each of the subsequent state became increasingly more controversial. This was conditioned by the increasingly more questionable democratic record of each of these states. This trend eventually developed in the way as to show the inclusion of states not only with questionable democracy but also with obvious authoritarian tendencies. The case of Croatia provides an example.

V. Analysis of Case Studies: Implementation of Commitments

The expansion of the Council of Europe to include the countries of Eastern and Central Europe made the admission process far more intricate, as the incorporation of the former communist states presented a unique set of problems. They had just begun the process of democratization and did not measure up to the standards regarding protection of human rights, the rule of law, and political pluralism. Even where their legal and constitutional orders reflected democratic principles, they lacked the support of a civil society to make them truly effective.

The problem of evaluating members' democratic practices became significant, qualitatively and quantitatively; with the wave of new accessions beginning in 1990. The council introduced monitoring in 1993, consisting of *obligations* (generally applicable to all member states) and *commitments*, i. e. specific pledges made at the time of accession to undertake certain action on democratic reform or to adhere to Council of Europe legal instruments, such as the Convention on the Prevention of Torture or the Framework Convention for the Protection of National Minorities. The Parliamentary Assembly's monitoring process also takes into account *expectations* it may have expressed in its respective opinion on a membership application.

The case study of the COE member states implementation of commitments presented hereby includes only those cases, which prompt certain conclusions and have certain implications for the COE enlargement. More particularly, these are countries related to which there have been significant PACE and Committee of Ministers debates and consequent decisions as related to their fulfillment of obligations and commitments.

Notably, most of these cases are countries, which have been under the PACE Monitoring Committee procedures.

The Parliament Assembly Monitoring Committee, founded in 1993, is responsible for ensuring that the obligations and commitments of the COE member states are honored. The monitoring procedure involves regular visits to the country and dialogue with the authorities in order to help it fulfil all the conditions of the COE membership. Since then, it has completed monitoring in those member states, which have been recommended upon as candidates for monitoring by the PACE and decided upon by Council of Ministers. Whenever PACE decides that a country has sufficiently implemented its commitments and has made a significant progress in democratic reforms, it closes the monitoring procedure in this country. Thus, in 1997, the PACE (Recommendation 1338) expressed an opinion that the Czech Republic had predominantly fulfilled its obligations and commitments. The Council of Ministers note of this recommendation decided to close the monitoring procedure in Czech Republic in 1998. One of the important commitments— the implementation of the citizenship law was at the center of the COE's exports attention. Their study prompted various improvements.

Another case of ending monitoring is Latvia. In January 23, 2001 the Parliamentary Assembly decided to close the monitoring procedure begun in September 1997. The Assembly declared that Latvia has made “substantial progress” in honoring the obligations and commitments it undertook when it became a member of the COE. This declaration stated that Latvia had met most of the objectives and deadlines set when it joined the COE in 1995. But some outstanding issues such as the ratification of the

Framework Convention for National Minorities and the European Social Charter were declared to be the subject of post-monitoring dialogue with the Latvian authorities.

The case of Albania illustrates how monitoring procedure has lingered for years without any significant progress in fulfilling commitments. As has been discussed, Albania was admitted to the organization in 1985 after a long debate and with a long list of commitments. However, there is still very little progress from the side of Albanian authorities and the on-going monitoring provides but only facts in favor of the conclusion that Albanian's admission was premature.

The case of Ukraine is particularly important and may have certain implications for the organization's further policies upon admission in 1995, Ukraine committed itself to reform to prepare a new constitution make a series of legal and judicial reforms as well as to sign and ratify a number of key conventions such as the abolition of the death penalty, the Anti-Torture Convention, the Framework Convention for the Protection of National Minorities and the Charter of Local and Self-Government. Notably, six years later – in April 2001, the Parliamentary Assembly Monitoring Committee declared that Ukraine had failed to honor its obligations and commitments and, therefore, should be excluded from the COE. The Committee of seventy-six members made a severe note to the Council of Ministers saying that it should suspend Ukraine from its right of representation under powers outlined in the organization's founding Statute. Most notably, suspension is the organization's ultimate sanction and has never been applied in its history. The unfulfilled commitments of Ukraine identified by the Monitoring Committee included the adoption of new laws on human rights protection, legal reform including reform of the general prosecutor's office and political parties, as well as new

criminal and civil codes. The Committee was concerned by murders of journalists, repeated aggression against and continuing intimidation of journalists, members of parliament and opposition politicians in Ukraine, and the frequent and serious abuses of power by the Ukrainian executive authorities in respect of freedom of expression and of assembly.

This severe conclusion and the threat of the exclusion of Ukraine from the COE strongly influenced the political decision of the Ukrainian authorities to make a certain improvement in the fulfillment of their commitments within 2-3 weeks. As a consequence, the Parliamentary Assembly decided not to ask for Ukraine to be immediately excluded from the COE but to grant it another extension with the new deadline for it to comply with its commitments. The Ukrainian delegation had informed the Assembly of the adoption by the Ukrainian Parliament of a new criminal code and of a law on political parties. Most speakers in the PACE regarded this as indicating some progress in Ukrainian's honoring its obligations and commitments. Notably, a number of Parliamentarians emphasized that the COE would not help Ukrainians to resolve their political crisis and many other problems they face by excluding Ukraine from the organization. Along side the decision not to exclude Ukraine, the Assembly also declared its concern of the murders, repeated assault and intimidation to which journalists, members of parliament, and members of political opposition are subjected to in favor of Russia's membership was the longest opinion ever adopted by the Assembly. It included a list of forty-five precise commitments by the Russian authorities (Opinion 193).

The approximately twenty-five specific commitments and a number of additional expectations of the Assembly centered on: 1) the signature or ratification of some key

Council of Europe conventions- for example, Protocol No. 6 to the ECHR on the abolition of the death penalty, the Charters for regional or Minority Languages, and conventions on extradition and on mutual assistance in criminal matters; 2) reform of Russian civil and criminal codes, the judicial and prison systems, the secret services, and the armed forces; and 3) Russia's compliance with specific areas of international law, particularly with regard to Chechnya and cooperation with international humanitarian organizations, and international treaties of which it is a signatory, such as the Treaty on Conventional Armed Forces in Europe.

From its admission till now, Russia has been under the monitoring procedure of the PACE Monitoring Committee. Still there are major deficiencies in the fulfillment of its implementations. In May 2001, the PACE President Lord Russell-Johnston made a declaration stating that Russia has not yet met the promises it made before entering. Most important of the commitments was to sign, within one year, and to ratify, within three years from time of accession, Protocol No. 6 to the European Convention on Human Rights abolishing a death penalty in the time of peace. Today, more than six years later, the treaty is not ratified and Russia has yet to honor the word it has given.

The abolition of capital punishment is a key formal condition for membership of the COE. It has been since the decision of the PACE in 1994, two years before Russia acceded to the organization. As Lord Russell-Johnston noted that recent statements made by high-level Russian officials in favor of suspending the moratorium on the executions, in force since August 1996 "are a worrying sign of either ignorance of, or blatant disregard for Russia's commitments and obligations as a member state of the Council of Europe" (Declaration by the PACE President, 2001).

As the President noted, the failure to ratify Protocol No. 6 does not mean that Russia is free to resume executions without serious implications for its status in the organization. If anything, this failure is an aggravating circumstance, which is further challenging the credibility of Russia's commitment to the organization's values and principles.

If Moscow decides to retract, or ignore its key political commitments made at that time- the commitments which provided the crucial argument to those in favor of Russia's accession against those who believed that time was not yet ripe- this would inevitably lead to the questioning of whether Russia is fit to continue as a member of the Council of Europe.

Croatia also illustrates a case when there is continued concern about the democratic progress in the country. The major doubts about autocratic tendencies present in Croatia significantly lingered the process of its accession. Opinion 195 adopted 1996 contained by twenty-nine commitments by the Croatian authorities which, however, as declared by the Parliamentary Assembly shortly after its adoption were not taken seriously by the Croatian government. Based on conclusions of the Monitoring Committee, the PACE by the Recommendation 1405 (1999) expressed the regret that Croatia had made little progress in honoring its commitments and obligations in a number of areas. The Assembly called to the Croatian authorities for taking necessary measures. In certain cases, the experts' opinions provided by the Deputies' Rapporteur Group for Democratic Stability, have not yet been followed by the Croatian parliament.

Georgia has made some progress, but is far from honoring all the commitments it made on joining the Council of Europe in April 1999, according to the Parliamentary Assembly's Monitoring Committee in September 2001, the committee welcomed

Georgia's ratification of the Council's cornerstone treaties- including the European Convention on Human Rights and the Anti-Torture Convention- but regretted that others- on minorities, local self-government and fighting crime- had not yet been ratified. The parliamentarians said there had been little progress on respect for human rights, expressing deep concern about allegations of ill-treatment and torture of detainees and alarm over the behavior of the police and security forces. Violence by Orthodox extremists against religious minorities such as Jehovah's Witnesses and Baptists was also a matter for great concern. Report co-authors Lino Diana and Matyas Eorsi acknowledged Georgia's efforts to bring its domestic legislation into line with European standards, but said there was still "a huge gap" between the formal laws and their practical implementation. They urged Georgia to cooperate more closely with Council of Europe experts (PACE Doc. 614a (2001)).

Most interestingly, not only newly admitted member states have been subject to monitoring by the PACE Monitoring Committee. One of the earliest members of the COE- Turkey, admitted in April 1950, is one of the countries where the Monitoring Committee is at present fulfilling monitoring procedures. In June 1995, the Committee of Ministers opened a dialogue with the Turkish government. In July 1995, several articles of the 1982 Constitution were amended. These amendments covered questions related to political parties. The status of members of parliament and parliamentary immunity, general and local elections, and trade union freedom. In October 1995, Article 8 of the 1991 Anti-Terrorism Law was amended. Previously, it had given rise to serious human rights violations. The Assembly welcomed these developments. However, revised Article 8 of the Anti-Terrorism Law still raises serious human rights issues. The Assembly

invites the Turkish authorities to pursue reform in order to bring the constitution and laws of Turkey in line with the principles and standards of the Council of Europe. By decision of the Turkish Supreme Court on 26 October 1995, two of the six parliamentarians from the DEP party, who were sentenced in 1994, were released. However, the continuing imprisonment of the other four remains a serious violation of human rights and negates the very essence of parliamentary democracy.

At present, there are seven member states that are under the monitoring of the PA Committee: Albania, Armenia, Azerbaijan, Georgia, Moldavia, Russia and Turkey. As summarized by the COE official website, these seven states have made/not made progress in signing and ratifying the following COE key conventions referred to in commitments: Council of Europe Conventions referred to in commitments, European Convention on Human Rights (ECHR), Protocol 6 to the ECHR, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT), Protocols No. 1 and 2 to the ECPT, European Charter for Regional or Minority Languages, Convention on laundering, search, seizure and confiscation of proceeds from crime, Criminal Law Convention on Corruption, Civil Law Convention on Corruption, Social Charter, Social Charter, Third Protocol to the Agreement, Fifth Protocol to the Agreement, Sixth Protocol to the Agreement.

During recent years, the number of additional commitments by applicant states recorded in assembly opinions has become increasingly larger, particularly since 1995. Thus, the opinion on Latvia contains thirteen such commitments, that on Moldova eighteen, that on Albania seventeen, that on Ukraine twenty-three, that on Macedonia twenty, that on Russia twenty-five and that on Croatia twenty-nine.

Some analysts such as Klebes (2001) conclude that this striking increase in the number of commitments does not necessarily imply that the situation in one country is less satisfactory than in another. Rather, it reflects a tendency on the part of the assembly to become more “perfectionist.” However, the analysis of the socio-political situation in each of these countries shows an obvious correlation between the number of commitments and the situation in a country. This also implies that in the recent decade the COE admission criteria have significantly lowered. Moreover, the case study shows that most of the countries admitted as a result of the enlargement policy do not take seriously their obligations and commitments. Some of them, as in the case of Russia and Ukraine, show political willingness to take measures to the fulfillment of their commitments only after severe remarks by the organization’s decision-making bodies.

These findings raise significant doubts about the organization’s role as perceived by the member states and by the international community in general.

VI. The Changing Role of the COE and its Future

From the very outset, by its Statute the COE aimed at a pan-European integration. It was designed to involve the whole of Europe in a close intergovernmental cooperation with the view to promote “spiritual and moral values, which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law” (Statute of the COE. See Appendix B). However, given the major dividing line between Eastern and Western parts of Europe that appeared as the result of the confrontation between the two poles of communist and Western worlds, the platform for activity of the COE was practically limited to only the Western Europe.

Notably, the inception of this organization was mostly owing to the realization at the time that in the post-World War Europe there was a need for an institution which would keep Germany under control and be a framework for a cooperation of European states with the view to reconstruct a more secure Europe. Shortly after it was founded, the COE proved to be insufficient to address this major concern and was sideline by other international organizations notably the EU. Yet this was not entirely to the COE’s detriment, as it was consequently encouraged to develop its own specialized field, that of human rights protection. Here, the COE has generally been regarded as innovative, owing to its facility for individual petition and the legally binding character of its instruments and conventions. Before 1989, all COE member states had ratified the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and had accepted the compulsory jurisdiction of the European Court of Human Rights- the organ set up in 1959 to supervise and enforce the rights laid down in the Convention. Several members had incorporated ECHR provisions into their domestic constitutions. In

all, this machinery was held to constitute, in the opinion of one observer, ‘the most advanced international legal framework for human rights in the world’ (Manas 1996, 107).

Thus, from 1949 to 1989, the COE’s role was mainly limited to defending human rights in Western Europe, a mission that has been undoubtedly characterized as ‘a success story.’

Faced with a substantially enlarged membership, since 1989 this core area of COE activity has grown considerably. The fragile nature of human rights in the new member states, coupled with the readiness of individual applicants to appeal retrospectively against the perceived injustices of communist rule, has meant a dramatic rise in appeals to the COE. To accommodate this, the COE undertook its major institutional reform of the post-1989 period- the phased transition under a 1994 protocol to the ECHR to a newly organized Court of Human Rights better able to deal with the increased workload. Simultaneously, the COE has continued its work of elaborating human rights standards. This includes the framing of the 1989 Convention for the Prevention of Torture (backed by its own committee charged with investigate visits to signatory states) and two initiatives relating to minority issues- the 1992 European Charter for Regional or Minority Languages and the 1995 Framework Convention for the Protection of National Minorities.

Along with upgrading its core functions in safeguarding Human Rights, the COE’s role extended as to include a more facilitative role. A more facilitative role in the new post-communist member states through the launch of a number of assistance programs. The first, known as ‘Demosthenes’, was launched in 1990, with the twofold objective of

strengthening democratic reforms and integrating new members into COE institutions and activities. To promote its work, in 1990 a new COE body was formed- the European Commission for Democracy through Law (the Venice Commission).

As has been previously discussed, the debate on enlargement within the organization came to its close in favour of the COE as a “school of democracy” argument as opposed to the orthodox purist argument of “community of values”. Thus, from its rather exclusivist function as the guardian of western democratic norms among the established European democracies, the organization has moved to take on the related, but nonetheless innovative, role of champion of these principles in the uncertain post-communist environment.

The main rationale underlying the outcome of this debate was that by promoting its core concerns__ pluralistic democracy, human rights and the rule of law__ and by encouraging tolerance among different ethnic and religious groups, the COE could make a unique contribution to stability in the region, engineering a ‘democratic security.’

Thus, actually since 1989 the functions of the COE enlarged from being a protector of the human rights and to a protector of human rights and minority rights, and a major facilitator of democratization processes in Central and Eastern Europe.

The enlargement of both territory and role was officially confirmed by the Vienna Declaration in the first summit meeting of the COE Heads of State and Government in October 1993. By this declaration, the COE expressed its commitment to seize historic opportunity to become a really pan-European organization with the view to build a democratic and secure continent. The accession of the countries freed from communist oppression was viewed as a central factor in the process of European construction.

The Second Summit of the COE further elaborated this extended role in 1997. By the Final Declaration adopted in this summit, the Heads of State and Government of the member states confirmed, “The far reaching changes in Europe and the great challenges to our societies require intensified cooperation between all European democracies.” With the view to create “a wider area of democratic security in the continent, they underlined “the essential standard-setting role of the Council of Europe in the field of human rights and its contribution to the development of international law through European conventions.” In particular, they affirmed their determination in strengthening the cooperation programs for the consolidation of democracy in Europe and “to give new impetus to those activities of the Council of Europe aimed at supporting member States in their efforts to respond to the changes in society.” More particularly, by the final declaration the Organization saw its role as that in the following fields:

- The protection of human rights
- The abolition of the death penalty
- Combating torture and inhuman or degrading treatment or punishment
- The fight against racism, xenophobia, antisemitism and intolerance
- A more balanced representation of men and women
- The protection of all persons belonging to national minorities
- Local democracy
- Promoting of an area of common legal standards throughout Europe.

By the final declaration, the COE officially recognized the need to redefine its priorities and adapt the functions of the Organization to the new European context.

As Secretary General Miguel Angel Martinez stressed it was “high time to define clearly and decide at the highest political level the place and role of the Council of Europe in the European institutional landscape” (COE Doc. 7637). He criticized the position taken by the Organization after the Vienna Declaration, which made clear that the COE is not only a human rights agency but also a forum for genuine political dialogue. He highlighted the importance of not only establishing such a forum but also using it to solve the new problems facing the post-World War Europe. As he proceeded “Only Heads of State and Government can break persisting deadlock and provide the political guidance and impetus necessary to adapt the Council of Europe to its changing environment” (COE, Doc. 7637). All in all, the second summit held in Strasbourg in 1997 was initiated with the view to strengthening the political role of the Organization.

The Final Declaration also stressed the need to pay more attention to the social dimension of the Organization’s role. The COE has been looked to as a model in terms of the protection of human rights. But by the Vienna Declaration it stepped up its activities in the social field. The combined effects of economic reforms and privatization and the current high levels of unemployment were threatening social cohesion. According to co-rapporteur Jean Seitlinger, the Council of Europe does have a role in fostering social progress (as demonstrated by its European Social Charter), but it must go further and “lay down new standards with a view to guaranteeing social cohesion and social welfare systems, in particular pensions, while also combating exclusion”. The new Council of Europe, which emerged from the second summit, was called on to provide a model for European society in the 21st century (Doc. 7637).

In order to call to life the priorities specified by the final declaration, the Heads of State and Government outlined an Action Plan “to strengthen democratic stability in the member States, and have accordingly defined four main areas where there is scope for immediate advances and practical measures, together with a fifth field concerning structural reforms” (Action Plan). These are:

I. The creation of democracy and human rights, as including

1. Single Court of Human Rights;
2. Commissioner for Human Rights;
3. Compliance with member States’ commitments;
4. Combating racism, xenophobia, antisemitism and intolerance;
5. Protection of national minorities

II. Social Cohesion, as including

1. Promotion of social rights;
2. New strategy for social cohesion;
3. Programme for children;
4. Social Development Fund

III. Security of Citizens

1. Combating terrorism;
2. Fighting corruption and organized crime;
3. Prevention of drug abuse;
4. Protection of children

IV. Democratic Values and Cultural Diversity

1. Education for democratic citizenship;
2. Enhancement of the European heritage;

3. New information technologies

V. Structures and Working Methods

1. Structural reforms;
2. Implementation of the Action Plan;

The analysis proposed in the previous sections has certain implications for the new role of the COE. The criticism has been made that the principles of the COE have been diluted by the influx of new members. Indeed, the enlargement process has proven in some cases so controversial as to lead to resignations from the organization's Secretariat. While Secretary General Tarschys has defended the COE against such charges, it is beyond dispute that the implicit lowering of admission criteria noted above has allowed in countries with dubious political, legal and human rights practices. This is a state of affairs made much worse by an unwillingness on the part of certain countries to live up to commitments made at the point of admission.

However, the criticism on the fact that failure in the implementation of commitments undermines the organization's credibility can partly be rebutted. It is already a positive sign that increasing numbers of States in the region have adhered to these and other human rights instruments: as an example. Moreover, the credibility of the Organization is maintained by putting a larger emphasis on the political monitoring of the obligations and commitments of member states.

As for the undeniable fact that the admission criteria have been significantly lowered as the result of enlargement, the rationale of democratic security comes to the fore. As elaborated above, the aim of building the democratically secure European continent was practically inseparable from the enlargement of membership to include East and Central

European countries. The relatively lowered admission criteria that presumably affect the credibility of the Organization can be said to be the necessary price to pay for democratic security. The very last phase of enlargement, i.e. the accession of the three Transcaucasian republics of Georgia, Armenia and Azerbaijan was also largely supported by this argument. In particular, the simultaneous accession of Armenia and Azerbaijan was viewed within the light of the contributing to the political resolution of Nagorno-Karabakh conflict.

Moreover, in response to criticism concerning the loosening the admission criteria the risk to the Organization's credibility, the COE points to its continuous willingness to suspend recalcitrant states, as in the cases of Yugoslavia and Belarus. In other cases such as Croatia, Albania and particularly Russia- full members with a less than perfect record in meeting COE norms. To expel them on the grounds of a persistent violation would certainly boost the COE's claim to be a beacon of democratic values and human rights, but would at the same time undo much of the facilitative work it has already invested in these states in promoting democratic consolidation. Yet to retain them, as members, while allowing such cooperative assistance to continue, will imply that the COE has somehow lowered its standards of membership, and in the process devaluated the very principles it claims to hold dear. Certainly, in the cases of Croatia, Russia, it is too early to judge whether their inclusion has proven a better way of encouraging beneficial change than exclusion, the record in both cases has so far been less than encouraging (Wolt 1999).

All in all, the COE in the last decade has grown into an organization, which plays its role in world politics on two levels:

- Regional
- Global

Since the 1989 change of political system it has played a leading role in expanding democratic values and practice in East and Central European states. This is how it enhances the democratic security of these countries, and thus stability on the continent. This body which earlier operated as a sort of club for the Western bloc, and which later played the role of bridge between the blocs on behalf of humanist values, has over the course of just a few years transformed into a pan-European institution on the continent. It accepts on the basis of equality, and offers the ground for dialogue to those European states that advocate the protection of democracy and human rights and actively move to promote such, by integrating East and Central European states into the values it represents. The Council of Europe has drawn attention to, and by today it has become a professional expert on East and central Europe. Other organizations rely on its experience and skills in the region. The European Union has allocated some of its resources earlier in Albania and the Baltic states, and those currently underway in Russia and the Ukraine. NATO and the European Union, in the course of their enlargement, take into consideration information obtained by the Council of Europe about the individual states in question. Furthermore, the Council of Europe takes an increasing part in OSCE missions, in monitoring elections, and cooperates in programs aimed at preventing conflicts as coordinated by OSCE. Cooperation in implementing the civil provision of the Dayton agreement provides a successful example of that.

Thus, on the regional level, the COE plays a key role in European integration as well as democratic stability and security in Europe. To this aim, the Council of Europe, in

order to carry out its activities on a Europe-wide scale, acts most often as an intergovernmental catalyst and a facilitator, bringing together different national experts and representatives and cooperating closely with a wide cross-section of nongovernmental organizations (NGOs), youth associations, and local groupings, which participate directly in the meetings and gatherings of the Council itself. The Council of Europe thus functions as an intergovernmental and interparliamentary body, producing legally binding decisions as well as making recommendations and organizing projects. However, it derives its normative strength from the more than 180 conventions it has concluded over the years, the oldest and most important of which is the European Convention on Human Rights (Pinto 1993).

An important element of the Organization's role in the region is its participation in the implementation of the Stability Pact. The COE's contribution to the Stability Pact has been one of the top priorities of the Organization since 1999. The Stability Pact for South Eastern Europe was adopted in 1999 in the European Union-United States. It proposed a comprehensive program of assistance to the countries of South Eastern Europe with the involvement of a number of international organizations__ European Union, NATO, OSCE, COE, UN, Western European Union and Organization of Economic Cooperation and Development. The role of the Council of Europe in this joined project was to make an important contribution to the Pact through its parliamentary and intergovernmental organs and institutions, its European norms embodied in relevant legally-binding conventions, its instruments and assistance programs in the fields of democratic institutions, human rights, law, justice and education, and its strong links with civil society (Stability Pact).

The COE has extended the geographic area of its activities beyond the area of its membership and has come to play an important role in providing consolidation of democratic institutions and promotion of political dialogue on the global level as well. To this aim, it has developed close cooperation with such non-European states as the US, Canada, Japan, Israel, Kyrgistan, Uruguay and Mexico, all of which hold observer status in the Parliamentary Assembly. Moreover, by logistic support of the Venice Commission- Commission for Democracy through Law, it has largely contributed to constitution building and consolidation of the rule of law in non-European states, notably on the African continent. At present, increasingly often, the COE is turned to for its expertise and practical support in the fields of democracy, human rights and the rule of law by other regional or global international organizations. An illustration is the COE's close cooperation with the UN. Its contribution to the work of the United Nations Interim Administration Mission in Kosovo (or UNMIK) provides an example.

While discussing the role of the COE, it is important to make a distinction between its role as perceived by international community and that perceived by the Organization itself.

The international community in this context includes not only official and unofficial perception of the COE by non-European states and organizations, but also by the European states aspiring to become a member as well as those already in the status of permanent members. In case of East and Central European states, a good deal of realpolitik is involved in aspiring for membership and hence perception of the Organization's role. In the first place, COE membership was seen as motivated by a desire to 'return to Europe', to restore links forcibly severed during the communist period

and to signify the break with the political and economic experience of communist rule. This is a goal that applies especially to Poland, the Czech Republic and Hungary, where cultural traditions, historical experience and geographic proximity have created a 'new nationalist myth... of return to real or imaginary European roots'. Further afield, it also has an influence. For the Baltic states, membership of the COE was seen as confirmation of their true position in the European mainstream, thereby distancing themselves from the experience of incorporation within a Soviet/ Russian sphere of interest. In Transcaucasia, too, where European identity is even more ambiguous, membership of the COE is viewed as symbolic acceptance of 'European-ness' and with it a refutation of the region's post-communist reputation for political instability (Woollacott 1996, 26).

Beyond these general expressions of political orientation, some very real practical considerations have also been at work among the new members. For a large number of post-communist states, recent interest in international organizations has been based on a sense of exposure and vulnerability. And while the COE itself is not disposed to tackle either the security predicaments or the economic challenges of these states, it has been viewed as facilitating the journey towards those organizations that can (Wolt 1999). Membership of the COE, by confirming a country's democratic status, satisfies an essential precondition of membership laid down by both the EU and NATO. This is a crucial consideration for states such as Poland, Hungary and the Czech Republic. For those equally intent on membership but further back in the queue, similar considerations have also applied. One Latvian analyst, for instance, has suggested that the Baltic states have, since 1991, engaged in a strategy of 'gradual, functional integration', welcoming entry into any and all structures of multilateral European cooperation in the hope that this

process will eventually extend to admission to the more prized organizations of the EU and NATO (Ozolins 1995, 70). Comparable strategies have also been pursued in Romania and Slovenia.

The perception of the Organization's role by the rest of the world is mixed and is again mainly dependent on realpolitikal considerations. Thus, the Western non-European states, in particular the US, in recent years have increased their interest in the Organization's activities, largely within the context of providing a 'transatlantic security'. This was owing to the realization that without the European security, and that provided by civilian means, the US security and more generally the global security will be at risk. In 1995 US-EU Summit, the COE was given its proper role in the common project of providing 'transatlantic security'.

In recent years, the enlarged functions and the consequent projects and programs of activities elaborated by the COE have raised a pressing need of additional financial resources. If these financial resources are not provided, there will be a great threat to the Organization's credibility in relation to effectively carrying out its activities in the fields that it's specialized in. There is already certain skepticism present especially in the unofficial perception of the Organization's role and a belief that it is growing to become a mere 'house of rhetoric' (Tarschys 1997). However, there are certain endeavors taken by the Organization not to give way to such an image of the COE and to strengthen the effectiveness of its activities. This is testified by the fact that the present Secretary General Walter Schimmer is determinant to play a more active role within the Organization and more notably his commitment to bring necessary reforms in the working methods of the Organization and in the methods of budgeting and financial

contribution. His conviction is that an international organization should not only do good. It should also be seen to do good. Through internal reorganization and the recent creation of a new Directorate on Communication and Research, he intends to promote a new and more assertive communication policy aimed at reinforcing the image of the Organization. The first results are encouraging (SG Speech 2001).

The COE's role as perceived by the Organization itself is also worth mentioning. It proved its flexibility and great innovativeness, shortly after 1989 revolutions in Europe when it took up the role of the champion of democratic principles in the uncertain post-communist environment. Closely related to this it seized to perceive itself as merely a club of established democracies and adopted the idea of becoming a kind of a teacher of democracy in Eastern and Central Europe with the view of overall pan-European integration. Such a view of the COE has been most obviously apparent among its permanent officials. Speaking in 1990, COE Secretary General Catherine Lalumiere suggested that the COE was "the organization around which... [a] future European confederation... [could] be constructed". While this level of euphoria did not last long after 1989, Lalumiere nonetheless continued to argue that the COE had a valuable role to play, particularly in Eastern Europe.

As discussed above, this view was officially confirmed by the Vienna Summit when the Organization declared about its policy of enlargement and its commitment to providing democratic security in Europe.

At present, the Organization views itself as the main intergovernmental catalyst and facilitator on a Europe-wide scale, as well as the one organization that has the mandate and the greatest experience in protecting human rights, providing pluralist democracy and

the rule of law. Seized by these three pillars of Western democracy, it is strongly determined not to give up the important role it can play in the region and in the world. Secretary General Walter Schimmer turned to the organization with the following call, “I would say to you and also to our governments: Use the Council of Europe- take advantage of the things it can do! In the present transition period, which is certain to last for some time, our role is a vital one. Political and civil society representatives in the transition countries will confirm that” (SG Speech 2000).

The determination of the COE to remain seized by its priorities has given way to the Organization’s view of its future role. As Walter Schimmer concludes, “in the immediate future, the Council of Europe will have to meet considerable challenges in the Caucasus and South-Eastern Europe. But these are also historic opportunities which we cannot afford to miss” (SG Speech 2000).

The cooperation and assistance programs are now coordinated by a Directorate of Strategic Planning, which has the task of maintaining overall consistency and making sure that priorities are respected. Increasingly, the Organization intends to adopt a project management approach in planning and implementing these programs.

To maintain its credibility, the Organization intends to uphold and develop its standards and principles. In particular, they view monitoring, assistance and the updating of existing legal instruments inseparable from the adoption of new ones as necessitated by the new risks to Europe: new technologies, the protection of minorities, fight against intolerance, bioethics, to give but a few examples. In general, the Organization, owing to its flexibility, takes up each new problem emerging in Europe as a major challenge “to ensure the full political comeback of the Organization as such” (SG Speech 1999).

As Walter Schwimmer noted the future of the COE “is made of ideas” (SG Speech 1999). With the hope to successfully fulfil its mission of a ‘teacher of democracy’ in Eastern and Central Europe, the COE sees its future in the consequent mission of consolidating and maintaining democracy in the region. Once again materialized in the words of Walter Schwimmer, the political mandate of the COE aims at “making democracy irreversible on our continent” (SG Speech 1999).

“Ten years on, the Council of Europe has reached a turning-point. Having helped the new states which emerged from the wreckage of communism to establish themselves as democracies, it is now preparing to launch new partnerships, to start working in new ways and on an equal footing with those same states, which have now joined it as members and are fully identified with its values” (Seven Paths for Future action 2001-2005).

Taking up the challenge of forging a pan-European society, the Secretary General introduced the so-called Seven Paths for Future Action- an elaborated list of priorities planned to be addressed 2001-2005.

Having in mind all the above discussed priorities for future action, the COE as expressed by the Secretary General allows the possibility of the future scenario when the members of the EU and the COE will coincide. When that day comes the COE shall have to rethink cooperation between the two organizations and initiate an institutional rapprochement.

Conclusion

The Council of Europe has undergone profound changes over the last twelve years. These changes are conditioned mainly by continuous enlargement of its membership: in the period from 1989 to 2001, the number of the COE member states grew from 23 to 43. This last wave of enlargement occurred due to the fall of the communist regime and the emergence of newly independent states in Eastern and Central Europe, and the Former Soviet Union.

Though not formally enshrined in a Council of Europe document, the school-of-democracy concept can now be considered the council's official doctrine. This doctrine is implicit in the council's decisions to extend membership to former communist states in Central and Eastern Europe between 1990 and 2001, as well as in its programs of assistance and cooperation.

The overall comparative analysis of the admission cases shows that undoubtedly there is a visible trend of lowered admission criteria. Starting from the admission of Estonia, Lithuania and Slovenia, the lowered trend manifested itself in that these states were admitted on the mere basis that they expressed the commitment and willingness to democratic institutions. This trend eventually developed in a way as to show the inclusion of states not only with questionable democracy but also with obvious authoritarian tendencies. The case of Croatia provides an example.

Our historical analysis of the cases of admission since 1989 has shown that the eventual decision on whether to admit or not admit a country is the outcome of three factors: the extent to which a country's democratic record corresponds to the COE requirements; the extent to which the COE, notably its Western European members are

politically interested in linking a country to Europe; and the extent to which a country is insistent and willing to join.

The case study shows that some of the countries admitted as a result of the enlargement policy do not take seriously their obligations and commitments. Some of them, as in the case of Russia and Ukraine show political willingness to take measures to the fulfillment of their commitments only after severe remarks by the organization's decision-making bodies.

These findings raise significant doubts about the organization's role as perceived by the member states and by the international community in general.

Faced with a substantially enlarged membership, since 1989 this core area of COE activity has grown considerably. Along with upgrading its core functions in safeguarding Human Rights, the COE's role extended as to include a more facilitative role in the new post-communist member states through the launch of a number of assistance programs.

The analysis has certain implications for the new role of the COE. The enlargement process has proven in some cases extremely controversial. The implicit lowering of admission criteria has allowed in countries with dubious political, legal and human rights practices. This is made much worse by unwillingness on the part of certain countries to live up to their commitments.

All in all, the COE in the last decade has grown into an organization, which plays its role in world politics on two levels__ regional and global.

On the regional level, the COE plays a key role in European integration as well as democratic stability and security in Europe. The Council of Europe thus functions as an

intergovernmental and interparliamentary body, producing legally binding decisions and organizing projects.

The COE has extended the geographic area of its activities beyond the area of its membership and has come to play an important role on the global level as well. To this aim, it has developed close cooperation with such non-European states as the US, Canada, Japan, Israel, Kyrgistan, and Uruguay, all of which hold observer status in the Parliamentary Assembly.

At present, increasingly often, the COE is turned to for its expertise and practical support in the fields of democracy, human rights and the rule of law by other regional or global international organizations.

At present, the Organization views itself as the one organization that has the mandate and the greatest experience in protecting human rights, providing pluralist democracy and the rule of law. Seized by these three pillars of Western democracy, it is strongly determined not to give up the important role it can play in the region and in the world.

The main policy recommendations to the COE, as derived from the above mentioned conclusions, are

- The COE should seek to strengthen monitoring procedures in all of the member states including the old members in relation to their observance of obligations and commitments.
- Conclusions of the Monitoring Committee should be given greater significance in making decisions in relation to suspension or exclusion of a member state not allowing that a persistently lingering member state negatively affect the credibility and the image of the organization.

- For the aim of strengthening its monitoring as well as effectively fulfilling its role of a ‘trainer of democracy’ in East and Central Europe and a ‘guardian of democracy’ in the whole of the continent, the organization should seek to reconsider its financial resources and working methods.

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4. European Social Charter.
5. Charter of Local and Self-Government.
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Appendix A: State of Signatures and Ratifications of Council of Europe Conventions by States under Monitoring

<i>Council of Europe Conventions referred to in commitments</i>	<i>ALBANIA</i>	<i>ARMENIA</i>	<i>AZERBAIJAN</i>	<i>GEORGIA</i>	<i>MOLDOVA</i>	<i>RUSSIA</i>	<i>TURKEY</i>	<i>UKRAINE</i>
European Convention on Human Rights (ECHR)	R 2.10.96	S 25.01.01	S 25.01.01	R 20.05.99	R 12.09.97	R 5.05.98	R 18.05.54	R 11.09.97
<i>Protocols 1,2 and 11 to the ECHR</i>	R 2.10.96	S 25.01.01	S 25.01.01	S 17.06.99	R 12.09.97	R 5.05.98	R	R 11.09.97
<i>Protocols 4 and 7 to the ECHR</i>	R 2.10.96	S 25.01.01	S 25.01.01	R 13.04.00	R 12.09.97	R 5.05.98	S	R 11.09.97
<i>Protocol 6 to the ECHR</i>	R 21.09.00	S 25.01.01	S 25.01.01	R 13.04.00	R 12.09.97	S 16.04.97	–	R 4.04.00
<i>European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT)</i>	R 2.10.96	S 11.05.01		R 20.06.00	R 2.10.97	R 5.05.98	R 26.02.88	R 5.05.97
<i>Protocols Nos. 1 and 2 to the ECPT</i>	R 2.10.96			R 20.06.00	R 2.10.97	R 5.05.98	R 17.09.97	S 26.01.98
<i>Framework Convention for the Protection of National Minorities</i>	S 29.06.95	R 20.07.98	R 26.06.00	S 21.01.00	R 20.11.96	R 21.08.98	–	R 26.01.98
<i>European Charter for Local Self-Government</i>	R 4.04.00	S 11.05.01			R 2.10.97	R 5.05.98	R 9.12.92	R 11.09.97
<i>European Charter for Regional or Minority Languages</i>		S 11.05.01				S 10.05.01	–	S 2.05.96
<i>Convention on mutual assistance in criminal matters</i>	R 4.04.00	S 11.05.01		R 13.10.99	R 4.02.98	R 10.12.99	R 24.06.69	R 11.03.98
<i>European Convention on Extradition</i>	R 19.05.98	S 11.05.01		R 15.06.01	R 2.10.97	R 10.12.99	R 7.01.60	R 11.03.98
<i>Convention on the transfer of sentenced</i>	R 4.04.00	R 11.05.01	R	R	S		R 3.09.87	R

<i>persons</i>			25.01.01	21.10.97	6.05.97			28.09.95
<i>Convention on laundering, search, seizure and confiscation of proceeds from crime</i>	S 4.04.00	S 11.05.01			S 6.05.97	R 2.08.01	-	R 26.01.98
<i>Criminal Law Convention on Corruption</i>	S 27.01.99			-	-	-	-	-
<i>Civil Law Convention on Corruption</i>	R 21.09.00			-	-	-	-	-
<i>(Revised) Social Charter</i>	S 21.09.98			S 30.06.00	S 3.11.98	S 14.09.00	R 24.11.89	S 7.05.99
<i>General Agreement on Privileges and Immunities</i>	R 4.06.98	R 25.06.01		R 25.05.00	R 2.10.97	R 28.02.96	R 7.01.60	R 6.11.96
<i>Protocol on the General Agreement on Privileges and Immunities</i>	R 4.06.98	R 25.06.01		R 25.05.00	R 2.10.97	R 28.02.96	R 7.01.60	R 6.11.96
<i>Second and fourth Protocol to the Agreement</i>	R 4.06.98					R 28.02.96	R 7.01.60 1.06.62	
<i>Third Protocol to the Agreement</i> (open to member states of the Resettlement Fund)	Not relevant					Not relevant	R 16.01.75	Not relevant
<i>Fifth Protocol to the Agreement</i>	R 4.06.98					R 28.02.96	R 1.06.94	
<i>Sixth Protocol to the Agreement</i>	R 4.06.98	S 25.06.01		R 20.06.00	R 27.06.01		S 15.02.99	S 3.11.98

“**R**”: ratified; “**S**”: signed but not ratified; “-” no specific commitment undertaken upon accession or merely a commitment “to study with a view to ratification”

APPENDIX B: Statute of the Council of Europe (excerpts)
London/Londres, 5.V.1949

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Irish Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland,
Convinced that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilization;
Reaffirming their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy;
Believing that, for the maintenance and further realization of these ideals and in the interests of economic and social progress, there is a need of a closer unity between all like-minded countries of Europe;
Considering that, to respond to this need and to the expressed aspirations of their peoples in this regard, it is necessary forthwith to create an organization which will bring European States into closer association,
Have in consequence decided to set up a Council of Europe consisting of a committee of representatives of governments and of a consultative assembly, and have for this purpose adopted the following Statute:

Chapter I – Aim of the Council of Europe

Article 1

- a. 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.
- b. This aim shall be pursued through the organs of the Council 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.
- c. Participation in the Council of Europe shall not affect the collaboration of its members in the work of the United Nations and of other international organizations or unions to which they are parties.
- d. Matters relating to national defence do not fall within the scope of the Council of Europe.

Chapter II – Membership

Article 2

The members of the Council of Europe are the Parties to this Statute.

Article 3

Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realization of the aim of the Council as specified in Chapter I.

Article 4

Any European State which is deemed to be able and willing to fulfil the provisions of Article 3 may be invited to become a member of the Council of Europe by the Committee of Ministers. Any State so invited shall become a member on the deposit on its behalf with the Secretary General of an instrument of accession to the present Statute.

Article 5

- a. In special circumstances, a European country which is deemed to be able and willing to fulfil the provisions of Article 3 may be invited by the Committee of Ministers to become an associate member of the Council of Europe. Any country so invited shall become an associate member on the deposit on its behalf with the Secretary General of an instrument accepting the present Statute. An associate member shall be entitled to be represented in the Consultative Assembly only.
- b. The expression "member" in this Statute includes an associate member except when used in connexion with representation on the Committee of Ministers.

Article 6

Before issuing invitations under Article 4 or 5 above, the Committee of Ministers shall determine the number of representatives on the Consultative Assembly to which the proposed member shall be entitled and its proportionate financial contribution.

Appendix C: The Council of Europe's Member States



- Member States
- Special Guest to the Parliamentary Assembly

Albania (13.07.1995)
Andorra
(10.10.1994)
Armenia (25.1.2001)
Austria (16.04.1956)
Azerbaijan
(25.1.2001)
Belgium (5.5.1949)
Bulgaria (7.5.1992)
Croatia (6.11.1996)
Cyprus (24.5.1961)
Czech Republic
(30.6.1993)
Denmark (5.5.1949)
Estonia (14.5.1993)
Finland (5.5.1989)
France (5.5.1949)
Georgia (27.4.1999)
Germany
(13.7.1950)
Greece (9.8.1949)
Hungary (6.11.1990)
Iceland (9.3.1950)
Ireland (5.5.1949)
Italy (5.5.1949)
Latvia (10.2.1995)

Liechtenstein
(23.11.1978)
Lithuania (14.5.1993)
Luxembourg
(5.5.1949)
Malta (29.4.1965)
Moldova (13.7.1995)
Netherlands
(5.5.1949)
Norway (5.5.1949)
Poland (29.11.1991)
Portugal (22.9.1976)
Romania (7.10.1993)
Russian Federation
(28.2.1996)
San Marino
(16.11.1988)
Slovakia (30.6.1993)
Slovenia (14.5.1993)
Spain (24.11.1977)
Sweden (5.5.1949)
Switzerland (6.5.1963)
the "former Yugoslav Republic of Macedonia"
(9.11.1995)
Turkey (13.4.1950)
Ukraine (9.11.1995)

United Kingdom
(5.5.1949)

The Special Guests to the Parliamentary Assembly

Bosnia- Herzegovina (28.01.94) - Federal Republic of Yugoslavia
(22.1.2001)

The Observers to the Committee of Ministers

Canada (29.05.1996) - Holy See (7.03.1970) - Japan (20.11.1996) -
Mexico (1.12.1999) - United States of America (10.01.1996)

The Observers to the Parliamentary Assembly

Canada (28.05.1997) - Israel (2.12.1957) - Mexico (4.11.1999)

**Appendix D: RECOMMENDATION 1247 (1994)^[1] on the
enlargement of the Council of Europe**

1. The Council of Europe is an Organization of sovereign states striving to achieve close co-operation on the basis of democratic constitutions and the European Convention on Human Rights. It is in Europe's interest that its basic values and ideas on human rights permeate neighbouring cultures, but without seeking in any way to question, let alone destroy, those cultures.
2. Membership of the Council of Europe is in principle open only to states whose national territory lies wholly or partly in Europe and whose culture is closely linked with the European culture. However, traditional and cultural links and adherence to the fundamental values of the Council of Europe might justify a suitable co-operation with other states neighbouring the "geographical" boundaries.
3. The boundaries of Europe have not yet been comprehensively defined under international law. The Council of Europe therefore should, in principle, base itself on the generally accepted geographical limits of Europe.
4. Accordingly, within their internationally recognised borders, all member states of the Council of Europe are European: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom.
5. The states whose legislative assemblies enjoy special guest status with the Parliamentary Assembly of the Council of Europe are also considered European, as defined in paragraph 3 above. These states are: Albania, Belarus, Bosnia-Herzegovina, Croatia, Latvia, The Former Yugoslav Republic of Macedonia, Moldova, Russia and Ukraine.
6. The possibility of membership is open to the republics of the former Socialist Federal Republic of Yugoslavia - Montenegro and Serbia - which currently have no formal status with the Council of Europe because of their responsibility for the crisis and the United Nations sanctions against them.
7. The possibility of membership is also open to the Principality of Andorra.
8. In view of their cultural links with Europe, Armenia, Azerbaijan and Georgia would have the possibility of applying for membership provided they clearly indicate their will to be considered as part of Europe. However, a new iron curtain should not be drawn behind these states as this would run the risk of preventing the spread of the Council of Europe's basic values to other countries. Neighbouring countries of "geographical" Europe should, if they so wish, be viewed as possible candidates for suitable co-operation.
9. Countries bordering directly on Council of Europe member states should be able to enjoy privileged relations with the Parliamentary Assembly, if they so wish. This applies in particular to the states on the eastern and southern shores of the Mediterranean.
10. Even after internationally recognised declarations of sovereignty, any non-European parts of member states which break away from the latter should only be able to apply to participate as observers in the Parliamentary Assembly's work.
11. Delegations to the Parliamentary Assembly should comprise a minimum of two and a maximum of eighteen members.

12. The Assembly therefore recommends that the Committee of Ministers define the limits of the enlargement of the Council of Europe taking into account the above-mentioned principles.

[1] Assembly debate on 4 October 1994 (26th Sitting) (see Doc. 7103, report of the Political Affairs Committee, Rapporteur: Mr Reddemann; Doc. 7166, opinion of the Committee on Legal Affairs and Human Rights, Rapporteur: Mrs Haller; and Doc. 7148, opinion of the Committee on Relations with European Non-Member Countries, Rapporteur: Mr Atkinson).

Text adopted by the Assembly on 4 October 1994 (26th Sitting).