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The functioning of democratic institutions in Turkey: recent developments

Report

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

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Summary

The Monitoring Committee is concerned that, regardless of their outcome, the on-going judicial proceedings to dissolve the Justice and Development ruling party in Turkey and to ban from politics 71 of its members, including the Prime Minister, the President of the Republic and 39 MPs, are seriously affecting political stability in the country, as well as the democratic functioning of state institutions and delay urgent economic and political reforms. They also spark a renewed debate about political party closure in Turkey, in relation to which the Strasbourg Court has found several violations of the European Convention of Human Rights in the past.

Respect for the independence of the judiciary should be guaranteed and no influence should be exercised on the Constitutional Court of the country. The Monitoring Committee is confident that the latter will apply European standards in the field of dissolution of political parties resulting from the case-law of the European Court of Human Rights on Articles 10 and 11 of the Convention and the Venice Commission's Guidelines on prohibition and dissolution of political parties.

The report, underlying the importance of effective separation of powers, urges all state institutions to respect each other's competences and join efforts to pursue, with renewed vigour, the much-needed economic and political reforms that will turn Turkey into a modern democracy.

The Monitoring Committee takes note of the government's initiative to draft a new, civilian constitution and considers that this opens a window of opportunity for a broad national debate involving all actors of society. It encourages the government to finalise this process in close co-operation with the Venice Commission. The new constitution should in particular guarantee an appropriate system of checks and balances and grant a centre place to the protection of human rights and fundamental freedoms, in line with European standards, in order to fully ensure the democratic functioning of Turkey's institutions and the consolidation of its modernisation and reform process.

The Monitoring Committee proposes to the Assembly to intensify its post-monitoring dialogue with Turkey, closely follow the development of the democratic functioning of its state institutions and, in particular, the constitutional drafting process and, if need be, seriously consider the possibility of re-opening the monitoring procedure for Turkey.

A. Draft resolution

1. The Parliamentary Assembly recalls that, in its Resolution 1380, adopted in June 2004, it decided to close the monitoring procedure for Turkey acknowledging the progress achieved in the reform process and confident that the Turkish authorities would pursue and consolidate these reforms, the implementation of which would require considerable changes to its legislation and regulations for the years to come. The Assembly decided to continue the post-monitoring dialogue with Turkey, through its Monitoring Committee, with regard to 12 issues which Turkey, as part of its authorities' reform process, was invited to address.

2. The Assembly notes with satisfaction that the government of Turkey, led by Mr Erdogan, has stood, for over five years now, for strong economic growth and political reforms, which led the country to win the favour of investors for pursuing macro-economic stability and privatisations in the country, and allowed the opening of accession negotiations with the European Union in October 2005. Since then, Turkey is making continuous efforts to meet the Copenhagen criteria, including the need to achieve "stability of institutions guaranteeing democracy, the rule of law and human rights", in line also with Turkey's statutory obligations as a Council of Europe member state.

3. However, reforms were halted in spring 2007 when a political crisis erupted as a result of the failure of the Turkish Grand National Assembly (hereafter "the parliament") to elect a new President of the Republic. This crisis led to early parliamentary elections in July 2007, considered by the Assembly and other international observers as generally in compliance with Turkey's Council of Europe commitments and European standards for free and fair elections. The Assembly notes that the high voter turnout confirmed that confidence in the democratic process exists in Turkey.

4. Obtaining 46.6% of the votes at the July 2007 elections, the Justice and Development Party (hereafter "AK Party") of Prime Minister Erdogan ensured a large, absolute majority. The Assembly, while regretting the Turkish authorities' failure to comply with its previous calls to lower the 10% electoral threshold, notes that the current parliament is more representative of the country's political diversity than the previous one, representing about 90% of the opinions of the electorate.

5. However, a fresh crisis followed the approval by the parliament on 9 February 2008 of changes to the constitution and the law on higher education which would ease the Muslim headscarf ban at Universities. The amendments were considered contrary to secular principles and declared unconstitutional by the Constitutional Court on 5 June 2008.

6. In the meantime, on 14 March 2008, judicial proceedings were instituted by the Chief Prosecutor of the Supreme Court of Turkey to dissolve the ruling AK Party on the grounds that the party had become a "centre of anti-secular activities" and ban for five years from politics 71 of its members, including President Gül and Prime Minister Erdogan, as well as 39 members of parliament. The case is pending before the Constitutional Court.

7. The Assembly is concerned that, regardless of its outcome, the lawsuit against the ruling party, as well as the Prime Minister and the President of the Republic, is seriously affecting political stability in the country, as well as the democratic functioning of state institutions and delays urgent economic and political reforms.

8. At the same time, the Assembly underlines that effective separation of powers and the independence of the judiciary are fundamental principles of a democracy based on the rule of law which should be fully guaranteed by all state institutions. No influence should be exercised on the Constitutional Court of the country. In this respect, the Assembly is confident that the latter will apply European standards in the field of dissolution of political parties resulting from the case-law of the European Court of Human Rights on Articles 10 (freedom of expression) and 11 (freedom of association and of assembly) of the European Convention of Human Rights and the Guidelines on prohibition and dissolution of political parties and analogous measures, adopted by the Council of Europe's European Commission for Democracy through Law (Venice Commission) in December 1999.

9. The Assembly notes that respect of the principle of proportionality is of special importance in the field of dissolution of political parties in view of their essential role in ensuring pluralism and the proper functioning of democracy. It recalls that the European Court of Human Rights has repeatedly stated that the dissolution of a political party, accompanied by a temporary ban prohibiting its leaders from exercising political responsibilities, is the most drastic measure; a measure of such severity should be applied only in the most serious cases.

10. The Assembly also recalls its Resolution 1308 (2002), in which it underlined that, although democracies have the right to defend themselves against extremist parties, the dissolution of political parties should be regarded as an exceptional measure to be applied only in cases where the party concerned uses violence or threatens civil peace and the democratic constitutional order of the country.

11. The Assembly notes that Turkey has a legacy of political party closures almost all of which have resulted in findings of violations of Article 11 of the European Convention of Human Rights. In its Resolution 1380 (2004) closing the monitoring procedure for Turkey, the Assembly, underlying that the frequency with which political parties were dissolved was a real source of concern, expressed the hope that in future the constitutional changes of October 2001 and those introduced in the legislation on political parties would "limit the use of such an extreme measure as dissolution".

12. It further notes that, in the light of these same reforms, the Committee of Ministers in 2007 closed the supervision of the execution of the European Court judgments in all cases concerning the dissolution of political parties in Turkey between 1991 and 1997, as it was satisfied that the relevant judgments had been appropriately executed. In so doing, the Committee of Ministers strongly encouraged the Turkish authorities to pursue their efforts to give direct effect of the Court's case-law in the implementation of Turkish law.

13. The current proceedings against the AK Party, regardless of their outcome, spark a renewed debate about the legal basis for the closure of political parties in the country and show that, despite the above-mentioned reforms, the issue of dissolution of political parties in Turkey is not closed. The Assembly notes that it becomes clear that further constitutional and legislative reforms in this respect are necessary.

14. A full revision of the 1982 Constitution which, despite repeated revisions, still bears the marks of the 1980 military *coup d'Etat*, and a comprehensive review of the law on political parties are required in order to bring these texts fully into line with European standards. In pursuing such reforms, the Turkish authorities should in particular envisage introducing stricter criteria for the dissolution of political parties, such as condoning or inciting violence or overt threats to fundamental democratic values, in line with the above-mentioned guidelines of the Venice Commission.

15. The Assembly recalls that, when adopting Resolution 1380 and closing the monitoring procedure for Turkey, it had invited Turkey, as part of its reform's process, to "carry out a major reform of the 1982 Constitution, with the assistance of the Venice Commission, to bring it into line with European standards". The need for a new, civilian constitution altogether has now become more evident than ever.

16. In this regard, the Assembly notes the government's initiative to draft a new constitution and considers that this opens a window of opportunity for a broad national debate involving all actors of society. It encourages the government to finalise this process in close co-operation with the Venice Commission. The new constitution should in particular guarantee an appropriate system of checks and balances and grant a centre place to the protection of human rights and fundamental freedoms, in line with European standards, in order to fully ensure the democratic functioning of Turkey's institutions and the consolidation of its modernisation and reform process.

17. At the same time, the Assembly, underlying the importance of effective separation of powers, urges all state institutions to respect each other's competences and join efforts to pursue, with renewed vigour, the much-needed economic and political reforms that will turn Turkey into a modern democracy.

18. The Assembly asks its Monitoring Committee to intensify its post-monitoring dialogue with Turkey, closely follow the development of the democratic functioning of its state institutions and, in particular, the constitutional drafting process, and if need be seriously consider the possibility of re-opening the monitoring procedure for Turkey.

B. Explanatory memorandum by Mr Luc Van den Brande, rapporteur

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I. Introduction

1. On 18 April 2008, during the Spring part-session of the Assembly, a written declaration was signed by 21 Parliamentary Assembly members¹ expressing concern about the judicial proceedings recently instituted by the Chief Prosecutor of the Supreme Court of Turkey to dissolve the ruling Justice and Development Party (AK Party) and ban 71 of its members from politics. Recognising the independence of the judiciary and prosecution, the signatories expected the latter to respect the case-law of the European Court of Human Rights on Articles 10 and 11 of the European Convention of Human Rights (hereafter "the Convention") when considering political party closure and bans on individual members.

2. At its meeting in Stockholm on 29 May 2008, following a request for a debate under urgent procedure submitted by the five chairpersons of the Assembly's Political Groups, on behalf of their groups, the Bureau of the Assembly decided to recommend to the Assembly to hold a debate on "the functioning of democratic institutions in Turkey" and proposed to refer this matter to the Monitoring Committee for report. At the opening of its June 2008 part-session, the Assembly voted in favour of holding a debate under urgent procedure on the recent developments regarding the functioning of democratic institutions in Turkey. The Monitoring Committee appointed me rapporteur at its meeting on 23 June 2008.

3. Turkey is engaged in a post-monitoring dialogue with the Monitoring Committee of the Parliamentary Assembly since the closure of the monitoring procedure in April 2004. I had drafted the last report on the honouring of obligations and commitments by Turkey, together with Ms Mady Delvaux-Stehres (Luxembourg, Socialist Group), which was debated by the Assembly on 22 June 2004 and led to the adoption of Resolution 1380 (2004).² This text listed 12 issues which Turkey, as part of its authorities' current reforms, was invited to address, starting from the need to carry out "*a major reform of the 1982 constitution, with the assistance of the Venice Commission, to bring it into line with current European standards*".

4. These 12 issues are the object of the post-monitoring dialogue between the Monitoring Committee and the Turkish authorities, which falls within the responsibility of the committee's Chairman. Upon the request of the former Chairman of the committee, Mr Eduard Lintner, the Turkish delegation to the Assembly provided information on the progress made with regard to these 12 issues in December 2007. The present Chairman of the committee, Mr Serhyi Holovaty, has planned a fact-finding mission to Turkey in autumn 2008.

5. I do not therefore intend to interfere with the Chairman's mandate under the post-monitoring dialogue and will limit myself to presenting recent developments in the country, linked to the on-going proceedings against the ruling party, and their implications for the functioning of the country's democratic institutions, as well as the challenges lying ahead. My report also provides background information as regards the Council of Europe standards in the field of dissolution of political parties and previous cases of dissolution of political parties in Turkey.

II. Developments in 2007- 2008

6. Turkey has been governed by the Justice and AK Party, led by Mr Recep Tayyip Erdogan, for over five years now. The government has stood for strong economic growth and political reforms and has won the favour of investors for pursuing macro-economic stability and privatisations in the country.

7. When founded in 2001 by Mr Erdogan and Mr Gül, the AK Party offered a significantly more moderate alternative on the Turkish political spectrum than the Welfare Party (Refah), led by Mr Necmettin Erbakan and dissolved in 1998, and the two parties that followed, the Virtue Party (Fazilet), dissolved in June 2001, and the Happiness Party (Saadet). The AK Party rejected the "Islamist" label³ and presented itself as a pro-Western mainstream party, with a conservative social agenda and a firm commitment to liberal market economy and initiating intensive reforms with the aim of European Union membership.

8. Already in its Resolution 1380 (2004), the Assembly had noted with satisfaction that, despite initial concern in November 2002 about the accession of the AK Party to power, the new government, with the unstinting support of the then only opposition party, the Republican Peoples' Party (CHP), had made good use of its absolute majority in Parliament to expedite and intensify the reform process.

¹ Doc. 11589, Written declaration on the judicial proceedings against the Justice and Development Party in Turkey

² See Doc. 10111 on honouring of obligations and commitments by Turkey, 17 March 2004.

³ Mr Erdogan had told us, when we had met him with my co-rapporteur in 2003, that his party took the German Christian Democratic party (CDU) as a model. See Doc. 10111, para. 12, footnote 6.

9. Major amendments were made in the framework of the three constitutional amendment packages introduced respectively in 2001, 2002 and 2004, including the abolition of death penalty in all circumstances, the abolition of State Security Courts from the Turkish judicial system, the enshrinement of the principle of gender equality in the Constitution, with an emphasis on the State's obligation to guarantee the respective principle and the elimination of the principle of secrecy with respect to the auditing of state property in possession of the Armed Forces. Also, the supremacy of international human rights treaties over domestic law in case of conflict between the two was established as a constitutional principle.

10. It was in the light of these reforms that the Assembly decided to close its monitoring procedure for Turkey in 2004 and follow further developments in the context of the more flexible post-monitoring dialogue. In its Resolution 1380 (2004), the Assembly noted that Turkey had achieved "more reforms in little more than two years than in the previous ten". It was also to a great extent in the light of these same reforms that the European Union opened accession negotiations with Turkey in October 2005. Since then, Turkey is making continuous efforts to fully comply with the Copenhagen criteria, including the need to achieve "stability of institutions guaranteeing democracy, the rule of law and human rights".

11. A new package of constitutional and legislative reforms was on the agenda of the government in 2007, but was hampered by the political crisis which erupted as a result of the failure by the Turkish Grand National Assembly (TGNA) to elect a new President of the Republic to succeed Ahmet Necdet Sezer before the expiry of his single 7-year term, on 16 May 2007.

12. The first round for the election of the new President by the TGNA took place on 27 April 2007. The vote was boycotted by the opposition, with the Republican People's Party (CHP), AK Party's main rival, complaining about the lack of prior discussion and consultation and the surprise announcement of the AK Party's candidate, Foreign Minister and Deputy Prime Minister Abdullah Gül,⁴ shortly before the expiry of the legal deadline.

13. Political tensions arose immediately fuelled by statements made by the Army warning that the Armed forces were the defenders of secularism. Mass demonstrations in Istanbul and other major cities were organised against what was perceived as a threat of growing islamisation in secular Turkey.⁵

14. On 1 May 2007, the Constitutional Court invalidated the first round of elections on the grounds that the required quorum of two-thirds of the membership of the TGNA⁶ to elect a new President had not been attained due to the boycott by the opposition.

15. The entire procedure was cancelled, Mr Gül's candidature was withdrawn and the Prime Minister, Mr Erdogan, submitted a package of constitutional amendments to the TGNA, proposing, *inter alia*:

- the election of the President by popular vote for a renewable term of five years;
- the shortening of the Parliament's term of office from five to four years;
- the establishment of a quorum of one third for all sessions and decisions of Parliament.

16. President Sezer used his constitutional powers to reject the constitutional amendments as the opposition complained that there had not been enough discussion of the proposed reform package. The reform package was then again approved by the TGNA on 31 May 2007. The President may not veto a reform package a second time, but he can refer the matter to the Constitutional Court. On 5 July 2007, the Constitutional Court declared valid the proposed constitutional amendments regarding the election of the Turkish President by direct popular vote.

17. Meanwhile, President Sezer also exercised his right to veto legislative reforms launched by the ruling majority, notably the law on the Ombudsman, the law on foundations and the law on private education institutions, which inevitably slowed down the pace of political reforms in the country.

18. In accordance with constitutional provisions requiring the holding of parliamentary elections forthwith if the Parliament fails to elect a new President of the Republic, the TGNA decided, in early May 2007, to hold early parliamentary elections on 22 July 2007.

⁴ A recurrent argument raised against Mr Gül's candidature by his political opponents was the fact that his wife wears a headscarf.

⁵ See report by the Ad Hoc Committee for the observation of the Parliamentary elections in Turkey (22 July 2007), Doc. 11367.

⁶ i.e. 367 from a total of 550 MPs.

19. The snap July 2007 parliamentary elections were observed by an Ad Hoc Committee of the Parliamentary Assembly under my chairmanship. We concluded, together with other international observers, that the elections were generally in compliance with Turkey's Council of Europe commitments and European standards for free and fair elections, that the voting was well organised and conducted in an orderly and professional fashion, which testifies to a long-standing tradition of democratic elections in Turkey. The high voter turnout showed that confidence in the democratic process exists in Turkey. Electoral administrators at all levels dispatched their duties effectively and in good faith.⁷

20. The AK Party won the elections for the second consecutive time with 46.6% of the votes (compared with 34.2% in the 2002 elections). It thus obtained 341 seats out of a total of 550 in the TGNA and ensured a large, absolute majority.

21. Two more parties, the Republican People's Party (CHP) and the Nationalist Movement Party (MHP), surpassed the 10% electoral threshold, which, despite repeated Assembly requests that it should be lowered,⁸ still remains excessive and by far the highest in Europe. The current Parliament is thus more representative of the country's political diversity than the previous one, representing about 90% of the opinions of the electorate⁹ (although this is not due to any steps taken by the Turkish authorities themselves).

22. One month after the July snap elections the newly-elected TGNA elected Mr Gül President of the Republic, on 28 August 2007, with 339 votes. Mr Erdogan remained Prime Minister.

23. The constitutional amendments approved by the TGNA in May 2007, including the election of the President by popular vote, were endorsed by a referendum held on 21 October 2007.

III. Judicial proceedings against the Justice and Development Party (AK Party)

24. Following the parliamentary elections of July 2007 and the election of a new President of the Republic one month later, the institutional crisis which had erupted in spring that year appeared to have come to an end. It was expected that, with a stable government enjoying a strong parliamentary majority and a more diverse and representative Parliament, the country could again start moving forward with the delayed and much needed political and economic reforms. Prime Minister Erdogan committed himself to the fact that 2008 was going to be the year of reforms.¹⁰

25. However, tensions arose again dramatically when Prime Minister Erdogan proposed to amend the Constitution so as to allow the headscarf ban to be lifted in universities, arguing that it was a matter of individual freedom and that this ban prevented many young women from receiving higher education. Opponents see the headscarf as a symbol of political Islam and a threat to secularism as one of the founding principles of modern Turkey.

26. On 17 January 2008, the Chief Prosecutor of the Supreme Court, Mr Abdurrahman Yalcinkaya, warned the AK Party that its attempt "to lift the headscarf ban" would have serious consequences that the reform would generate social discord and that universities would become centres of anti-secular activity.¹¹

⁷ See report by the Ad Hoc Committee for the observation of the Parliamentary elections in Turkey (22 July 2007), Doc. 11367, which also contains a number of recommendations to the Turkish authorities for improving the organisation of elections.

⁸ See Assembly Resolutions 1380 (2004) and 1547 (2007), the report on the observation of the parliamentary elections, as well as the draft resolution on the functioning of democratic institutions in Turkey and the progress of the Assembly's monitoring procedure which will be debated by the Assembly on 25 June 2008. The issue of the electoral threshold is also part of the post-monitoring dialogue with Turkey.

⁹ The Republican People's Party (CHP) came second with 20.9% (99 seats) and the Nationalist Movement Party (MHP) came third with 14.3% (70 seats). 26 independents candidates were also elected. 20 of them, from the Democratic Society Party, formed their own political group, bringing the number of political groups to four. The Democratic Left Party (DSP), with 13 seats, the Grand Unity Party (BBP) and the Freedom and Democratic Party (ÖDP) with one seat each, are also represented in Parliament.

¹⁰ In its Resolution on Turkey's 2007 progress report of 21 May 2008, the European Parliament took note of the Commission's conclusion that limited progress was achieved on political reforms in Turkey in 2007 and at the same time welcomed the commitment of Prime Minister Erdogan that 2008 was going to be the year of reforms. The European Parliament urged the Turkish government to fulfill its promises by making use of its strong parliamentary majority to resolutely pursue reforms that are crucial for Turkey's transformation into a modern and prosperous democracy based on a secular state and a pluralistic society.

¹¹ <http://english.sabah.com.tr/0596C09AE1374597BD01CAA7BA76D4FC.html>

27. On 9 February 2008, the TGNA approved by 411 votes to 103 the proposed constitutional amendment which would ease the ban on female students wearing the Muslim headscarf at university. In particular, the amendment consisted in adding a sentence to Article 10 of the Constitution on equality before the law, specifying that the principle of equality before the law also applied to “the provision of all public services”. Also an amendment was voted to the Law on the Higher Education so as to provide that no one shall be deprived of the right to higher education “for any reason not explicitly specified by law. The limits of the use of this right will be determined by law”.

28. On 5 June 2008, the Constitutional Court ruled that the vote by the TGNA to ease the ban on headscarves worn in universities violated the Constitution's secular principles.

29. In the meantime, on 14 March 2008, the Chief Prosecutor of the Supreme Court asked the Constitutional Court to close down the AK Party on the grounds that the party had become a “centre of anti-secular activities” and to ban 71 party officials, including President Abdullah Gül, Prime Minister Erdogan, four ministers and 39 MPs, from politics for five years. On 31 March 2008, the Constitutional Court decided unanimously on the admissibility of the case with respect to the closure of the AK Party and the ban on 70 party officials. In the additional case of President Gül, the Court decided to hear the case by a majority vote.

30. This is not the first time that AK Party has been threatened with closure and Mr Erdogan with a ban on political activity: two months prior to the November 2002 snap parliamentary elections, Mr Erdogan was declared ineligible by the Supreme Electoral Council on account of a criminal conviction in 1998 for incitement to racial hatred under article 312 (now Article 301) of the Criminal Code, for which he had served four months of a ten month sentence before being released as a result of an amnesty in 1999. In October 2002, only one month before the elections, the Chief Prosecutor had asked the Constitutional Court to dissolve the AK Party, on the ground that Mr Erdogan had remained Chairman of the Party despite an earlier Constitutional Court injunction. In the end, the Chief Prosecutor finally decided to seek only partial or total withdrawal of public financing of the AK Party.

31. The current indictment is based on Article 69 of the Constitution and the law on political parties. Article 69 of the Constitution states that: “*the permanent dissolution of a political party shall be decided when it is established that the statute and programme of the political party violate the provisions of the fourth paragraph of Article 68*”. According to the latter, “*the statutes and programmes, as well as the activities of political parties shall not be in conflict with the independence of the state, its indivisible integrity with its territory and nation, human rights, the principles of equality and rule of law, sovereignty of the nation, the principles of the democratic and secular republic; they shall not aim to protect or establish class or group dictatorship or dictatorship of any kind, nor shall they incite citizens to crime* (emphasis added)”.

32. Following constitutional amendments in 1995 and 2001, the conditions for the dissolution of political parties in Article 69 are now stricter:

“The decision to dissolve a political party permanently owing to activities violating the provisions of the fourth paragraph of Article 68 may be rendered only when the Constitutional Court determines that the party in question has become a centre for the execution of such activities. A political party shall be deemed to become the centre of such actions only when such actions are carried out intensively by the members of that party or the situation is shared implicitly or explicitly by the grand congress, general chairmanship or the central decision-making or administrative organs of that party or by the group's general meeting or group executive board at the Turkish Grand National Assembly or when these activities are carried out in determination by the above-mentioned party organs directly (emphasis added).”

33. Article 69, as amended, also provides that, instead of permanent dissolution, the Constitutional Court may rule the party concerned be deprived of State aid wholly or in part depending on the intensity of the actions brought before the court.

34. The 162-page indictment acknowledges that the AK Party's programme and its written statutes are not unconstitutional. However, it states that the AK Party has “in actions and verbal statements acted against laws and the Constitution”.

35. The indictment cites scores of incidents and acts by AK Party officials as evidence of its anti-secular activities. The Chief Prosecutor notes that AK Party is the successor of previous Islamic parties, which

based their policies on a struggle against republican values, especially secularism.¹² The secular characteristic of the Turkish state is enshrined in Article 2 of the Constitution and protected in its Article 4 which declares the immovability of the founding principles of the Republic defined in the first three Articles and rules out any proposal for their modification.¹³

36. The indictment concludes that the AK Party has: “revealed its intention to constitute the environment in which basic principles of the Republic of Turkey will be changed by the actions mentioned above and especially by their proposals for a constitutional amendment and changes on the Law on Higher Education [abolishing ban on headscarves at universities]; ignored the fact that religious symbols cannot be used in secular systems; been determined to transform the secular Republic into a new life system and a new state order and begun to divide the society into those who are religious and those who are not; attempted to change gradually the secular judicial structure and to give it a new shape; opened the discussion on the future of the regime and the Republic.”

37. The indictment goes on to state that: “it is a fact that the AK Party will use material power to change the secular order because it enjoys the government power today and this danger is not far. This is a fact when we consider that they will adopt Shariah by enabling the society to evolve towards an Islamic structure through what they call consensus processes;” “the AKP Party would use jihad as required by Shariah and if it fails to achieve to establish the regime it aims. In other words, the use of jihad, i.e. violence is probable”; “the threat posed by the policies of the AK Party is clear and present. Concrete steps have been taken that may harm the civilized peace and the democratic regime in the country”; “in this context, there is no other possibility than closing the party as the only sanction applicable and also required by the society in order to protect the society from this danger and to prevent [the AK Party] from reaching its objective.”

38. On 16 June 2008, the ruling AK Party submitted its final written defence to the Constitutional Court.

39. In its introduction, the 98-page defence statement strongly denied accusations that the AK Party had become a “centre of anti-secularist activity,” arguing that the Chief Prosecutor’s indictment was motivated by ideological and political motives rather than legitimate legal concerns. It said the tone of the indictment was too simplistic. It also argued that the Chief Prosecutor’s understanding of the concepts of democracy and secularism did not live up to the universally accepted understanding of those concepts: the Chief Prosecutor was defending secularism as a lifestyle rather than as a healthy separation between religion and state affairs.

40. The defence testimony argued that the text of the indictment was not a legal text but a document filled with fictitious accusations based on speculative assumptions regarding the future, ignoring the performance of the ruling party for some six years and the reality of the country. It further presented evidence that some of the evidence had been produced only after the prosecutor had decided to launch the lawsuit to shut down the AK Party. The defence statement also noted that banning the AK Party would be a violation of the freedom of association guaranteed by the European Convention of Human Rights, as interpreted by the European Court of Human Rights.

41. It is expected that the Constitutional Court will take a decision on the case in the summer months or in September 2008. Apart from rejecting or granting the request of the Chief Prosecutor with regard to the dissolution of the AK Party, the Court is empowered instead to rule that the party should be deprived of state aid wholly or in part with respect to the intensity of the actions brought before the court. The Court is also empowered to decide whether or not to ban the party officials in the event that it were to decide in favour of the dissolution of the party or the deprivation of state aid.

¹² For the meaning of secularism and especially how it is understood in Turkey, see Doc. 10111; see also the judgment of the European Court of Human Rights in the case of *Leyla Sahin v. Turkey*, judgment of 10 November 2005, where the Court concluded that the headscarf ban in universities did not breach the European Convention of Human Rights.

¹³ Abstract form the Constitution of the Republic of Turkey: ARTICLE 1. The Turkish state is a Republic. II. Characteristics of the Republic. ARTICLE 2. The Republic of Turkey is a democratic, secular and social state governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the Preamble. III. Integrity of the State, Official Language, Flag, National Anthem, and Capital ARTICLE 3. The Turkish state, with its territory and nation, is an indivisible entity. Its language is Turkish. Its flag, the form of which is prescribed by the relevant law, is composed of a white crescent and star on a red background. Its national anthem is the “Independence March”. Its capital is Ankara. IV. Irrevocable Provisions Article 4: The provision of Article 1 of the Constitution establishing the form of the state as a Republic, the provisions in Article 2 on the characteristics of the Republic, and the provision of Article 3 shall not be amended, nor shall their amendment be proposed.

42. Pending the Court's decision and regardless of the outcome, the lawsuit against the ruling party is seriously affecting the political stability in the country and the democratic functioning of its institutions. The rapporteur is aware that the further development of political tensions would most regrettably distract the government from urgent economical and political reforms.¹⁴

43. At the same time, the rapporteur underlines that the independence of the judiciary should be fully guaranteed and respected and no influence should be exercised on the Constitutional Court. The rapporteur is confident that the latter will be inspired from European standards in the field of dissolution of political parties, and in particular the relevant case-law of the European Court of Human Rights and the Guidelines on prohibition and dissolution of political parties and analogous measures, adopted by the Venice Commission in 1999.

IV. European standards in the field of dissolution of political parties

i. General principles in the relevant case-law of the European Court of Human Rights

44. The Court has repeatedly stated that "*democracy appears to be the only political model contemplated by the Convention and, accordingly, the only one compatible with it*".

45. The Court has also confirmed, on a number of occasions, the primordial role played in a democratic regime by political parties enjoying the rights and freedoms enshrined in Article 11 (freedom of association and of assembly) and Article 10 (freedom of expression) of the Convention. It has found even more persuasive than the wording of Article 11 the fact that "*political parties are a form of association essential to the proper functioning of democracy*." In view of the role played by political parties, any measure against them affects both freedom of association and, consequently, democracy in the state concerned.¹⁵ It is in the nature of the role they play that political parties, the only bodies which can come to power, also have the capacity to influence the whole of the regime in their countries. By the proposals for an overall societal model which they put before the electorate and by their capacity to implement those proposals once they come to power, political parties differ from other organisations which intervene in the political arena¹⁶.

46. Moreover, the Court has noted that protection of opinions and the freedom to express them within the meaning of Article 10 of the Convention is one of the objectives of the freedoms of assembly and association enshrined in Article 11. That applies all the more in relation to political parties in view of their essential role in ensuring pluralism and the proper functioning of democracy.

47. The Court considers that there can be no democracy without pluralism. It is for that reason that freedom of expression as enshrined in Article 10 is applicable, subject to the restrictions provided in its paragraph 2, not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb¹⁷. Inasmuch as their activities form part of a collective exercise of the freedom of expression, political parties are also entitled to seek the protection of Article 10 of the Convention.

48. The Court thus considers that a political party may promote a change in the law or the legal and constitutional structures of the State on two conditions: firstly, the means used to that end must be legal and democratic; secondly, the change proposed must itself be compatible with fundamental democratic principles. It necessarily follows that a political party whose leaders incite to violence or put forward a policy which fails to respect democracy or which is aimed at the destruction of democracy, and the flouting of the rights and freedoms recognised in a democracy, cannot lay claim to the Convention's protection against penalties imposed on those grounds.¹⁸

¹⁴ The European Union and European politicians have expressed their concern about these proceedings. In its Resolution of 21 May 2008 on Turkey's progress report, the European Parliament expressed its concern about the implications of the AK Party closure case and expected the Turkish Constitutional Court to respect principles of the rule of law, European standards and the Guidelines on prohibition and dissolution of political parties and analogous measures, adopted by the Venice Commission of the Council of Europe on 10-11 December 1999, and asked the Turkish authorities to bring the Constitution into line with these standards on the prohibition of political parties.

¹⁵ See the *United Communist Party and others v. Turkey* judgment of 30 January 1998.

¹⁶ See the *Refah Partisi (Welfare Party) and others v. Turkey* judgment of 13 February 2003.

¹⁷ See, among many other authorities, *Handyside v. the United Kingdom*, judgment of 7 December 1976, Series A no. 24, p. 23, § 49, and *Jersild v. Denmark*, judgment of 23 September 1994, Series A no. 298, p. 26, § 37.

¹⁸ See *Yazar and Others v. Turkey*, nos. 22723/93, 22724/93 and 22725/93, § 49, ECHR 2002-II, and, *mutatis mutandis*, the following judgments: *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 97, ECHR 2001-IX, and *Socialist Party and Others v. Turkey*, judgment of 25 May 1998, Reports 1998-III, pp. 1256-57, §§ 46-47.

49. The possibility cannot be excluded that a political party, in pleading the rights enshrined in Article 11 and also in Articles 9 and 10 of the Convention, might attempt to derive there from the right to conduct what amounts in practice to activities intended to destroy the rights or freedoms set forth in the Convention and thus bring about the destruction of democracy.¹⁹ In view of the very clear link between the Convention and democracy, no one must be authorised to rely on the Convention's provisions in order to weaken or destroy the ideals and values of a democratic society. Pluralism and democracy are based on a compromise that requires various concessions by individuals or groups of individuals, who must sometimes agree to limit some of the freedoms they enjoy in order to guarantee greater stability of the country as a whole. In that context, the Court has considered that it is not at all improbable that totalitarian movements, organised in the form of political parties, might do away with democracy, after prospering under the democratic regime, there being examples of this in modern European history.

50. The Court has, however, repeatedly underlined that the restrictions on freedom of association set out in Article 11 § 2, where political parties are concerned, are to be construed strictly; only convincing and compelling reasons can justify restrictions on such parties' freedom of association. In determining whether a restriction is "*necessary within a democratic society*" within the meaning of Article 11 § 2, the Contracting States have only a limited margin of appreciation. Although it is not for the Court to take the place of the national authorities, which are better placed than an international court to decide, for example, the appropriate timing for interference, it must exercise rigorous supervision embracing both the law and the decisions applying it, including those given by independent courts. Drastic measures, such as the dissolution of an entire political party and a disability barring its leaders from carrying on any similar activity for a specified period, may be taken only in the most serious cases.²⁰

51. Thus the Court has held that, provided that the means used to that end are legal and democratic and that the change proposed is itself compatible with fundamental democratic principles, a political party animated by the moral values imposed by a religion cannot be regarded as intrinsically inimical to the fundamental principles of democracy, as set forth in the Convention.

52. The Court's overall examination of the question whether the dissolution of a political party on account of a risk of democratic principles being undermined met a "pressing social need" focuses on the following points: (i) whether there was plausible evidence that the risk to democracy, supposing it had been proved to exist, was sufficiently imminent; (ii) whether the acts and speeches of the leaders and members of the political party concerned were imputable to the party as a whole; and (iii) whether the acts and speeches imputable to the political party formed a whole which gave a clear picture of a model of society conceived and advocated by the party which was incompatible with the concept of a "democratic society".

53. The Court then examines whether dissolution is a sanction "*proportionate to the legitimate aims pursued*". In this respect, the Court has repeatedly stated that the dissolution of a political party accompanied by a temporary ban prohibiting its leaders from exercising political responsibilities is a drastic measure and that measures of such severity might be applied only in the most serious cases.²¹

ii. *Guidelines on prohibition and dissolution of political parties and analogous measures, adopted by the European Commission for Democracy through Law (Venice Commission) in 1999*

54. Following a report on the prohibition of political parties and analogous measures prepared in 1998 upon the request of the Secretary General of the Council of Europe, the Venice Commission adopted one year later, in December 1999, Guidelines on this subject.²² The aim of these Guidelines (seven in total) is to establish a set of common principles for all member states of the Council of Europe and other countries sharing the same values, which are reflected in the European Convention of Human Rights. Guidelines 3 to 6 read as follows:

"3. *Prohibition or enforced dissolution of political parties may only be justified in the case of parties which advocate the use of violence or use violence as a political means to overthrow the democratic*

¹⁹ See *Communist Party (KPD) v. Germany*, no. 250/57, Commission decision of 20 July 1957, Yearbook 1, p. 222. This was the first case in which the European Commission of Human Rights dealt with a case of dissolution of a political party.

²⁰ See the following judgments: *United Communist Party of Turkey and Others*, § 46; *Socialist Party and Others*, § 50; and *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], no. 23885/94, § 45, ECHR 1999-VIII.

²¹ See, among many other authorities, the *Socialist Party and Others v. Turkey* judgment of 25 May 1998, § 51.

²² See Guidelines on prohibition and dissolution of political parties and analogous measures, CDL-INF (2000) 1, adopted by the Venice Commission at its 41st plenary session, Venice, 10-11 December 1999.

constitutional order, thereby undermining the rights and freedoms guaranteed by the constitution. The fact alone that a party advocates a peaceful change of the Constitution should not be sufficient for its prohibition or dissolution.

4. A political party as a whole can not be held responsible for the individual behaviour of its members not authorised by the party within the framework of political/public and party activities

5. The prohibition or dissolution of political parties as a particularly far-reaching measure should be used with utmost restraint. Before asking the competent judicial body to prohibit or dissolve a party, governments or other state organs should assess, having regard to the situation of the country concerned, whether the party really represents a danger to the free and democratic political order or to the rights of individuals and whether other, less radical measures could prevent the said danger.²³

6. Legal measures directed to the prohibition or legally enforced dissolution of political parties shall be a consequence of a judicial finding of unconstitutionality and shall be deemed as of an exceptional nature and governed by the principle of proportionality. Any such measure must be based on sufficient evidence that the party itself and not only individual members pursue political objectives using or preparing to use unconstitutional means.”

iii. *Parliamentary Assembly Resolution 1308 (2002) on restrictions on political parties in the Council of Europe member states*

55. In its Resolution 1308 (2002), the Assembly, along the lines of the Venice Commission's Guidelines, underlined that, although democracies have the right to defend themselves against extremist parties, the dissolution of political parties should be regarded as an exceptional measure to be applied only in cases where the party concerned uses violence or threatens civil peace and the democratic constitutional order of the country.

V. Cases concerning the dissolution of political parties in Turkey

56. Turkey has a legacy of political party closures. In our last monitoring report on Turkey in 2004, we had already considered that the frequency with which political parties were dissolved in Turkey was not only a breach of the freedom of assembly and association embodied in article 11 of the Human Rights Convention, but also reflected a more general institutional problem. Of all European states Turkey has the most dissolutions of political parties. Most of the banned parties have circumvented the bans by regrouping under a new name.

57. In almost all cases concerning the dissolution of political parties by the Constitutional Court between 1991 and 1997, the European Court of Human Rights, applying the general principles summarised above, concluded that the sanction of dissolution was disproportionate and that there had therefore been a violation of the right of freedom of association enshrined in Article 11.²⁴

58. Most of the parties²⁵ were dissolved either on the sole basis of their name and/or statute or very shortly after their creation²⁶ or before they could even begin their activities. These parties' statutes and/or

²³ In its explanatory report on Guideline 5, the Venice Commission further specifies that “*the competent bodies should have sufficient evidence that the political party in question is advocating violence (including such specific demonstrations of it such as racism, xenophobia and intolerance), or is clearly involved in terrorist or other subversive activities.*”

²⁴ In the *Refah Partisi (Welfare Party) and Others v. Turkey* judgment, the Court found no violation of Article 11 of the Convention considering that: the acts and speeches of its leaders and members cited by the Constitutional Court were imputable to the whole party; they had revealed Refah's long-term policy of setting up a regime based on Sharia, within the framework of a plurality of legal systems; Refah had not excluded recourse to force in order to implement its policy. The Court further considered that Refah had never exercised power alone and had therefore never had the opportunity to put its plans into practice as it was part of a coalition government. Given the considerable rise in Refah's influence as a political party and its chances of coming to power alone at the time when the decision on dissolution was taken, the real opportunities Refah had to put its plans into practice at that moment made the danger to democracy more tangible and more immediate.

²⁵ Applications Nos. 19392/92 (*United Communist Party of Turkey and others v. Turkey*), 23885/94 (*Freedom and Democracy Party – ÖZDEP v. Turkey*), 26482/95 (*Socialist Part of Turkey and others v. Turkey*), 39974/98 (*Democracy and Change Party and others v. Turkey*) and 39434/98 (*Emek Partisi and Senol v. Turkey*).

²⁶ Applications Nos. 21237/93 (*Socialist Party and others v. Turkey*), 22723/93 (*Yazar and others v. Turkey*) and 25141/94 (*Dicle for the Democratic Party (DEP) of Turkey v. Turkey*).

statements made by their leaders²⁷ were considered to undermine the territorial integrity and the unity of the nation, mainly on account of references to the Kurdish people or to Kurdish self-determination, in violation of the Constitution and of various provisions of the Law on Political Parties.

59. In the case of the United Communist Party, additional grounds were constituted by the use of the term “communist”, prohibited under Article 96(3) of the LPP and, in the Freedom and Democracy Party (ÖZDEP) case, by the fact that the apparent aim of the party was to abolish the secular state in violation of Article 89 of the LPP.

60. In the case of the Socialist Party and others, one of the applicants, Mr Perinçek, the chairman of the Party, was convicted on the basis of the same facts as those at the origin of the dissolution of his party after the Court’s judgment.²⁸ In this case, the Court found a violation of freedom of expression (Article 10). The reasons relied on by the Turkish courts could not be regarded as sufficient by themselves to justify the interference with the applicant’s right to freedom of expression. The applicant had made his speeches in his capacity as a politician, a player on the Turkish political scene. The speeches did not encourage the use of violence or armed resistance or insurrection and did not constitute hate speech, which, in the Court’s view, was an essential factor. In addition, the Court found that the applicant’s conviction and sentence were disproportionate to the aims pursued and, accordingly, not “necessary in a democratic society”.

61. Through constitutional reforms in 1995 and 2001, as well as amendments in 2003 to the LPP, the Turkish authorities introduced provisions which reinforced the requirement of proportionality for any interference by the state in the freedom of association enjoyed by political parties. Also, in 2004, an amendment to Article 90 of the Constitution provided that international human rights treaties take precedence over any incompatible national legislation.²⁹

62. In its Resolution 1380 (2004) closing the monitoring procedure for Turkey, the Assembly, underlying that the frequency with which political parties are dissolved was a real source of concern, expressed the hope that in future the constitutional changes of 2001 and those introduced in the legislation on political parties would limit the use of such an extreme measure as dissolution.

63. Also, in the light of these same reforms and further individual measures taken, the Council of Europe’s Committee of Ministers in 2007 closed the supervision of the execution of European Court judgments of all cases concerning the dissolution of political parties in Turkey between 1991 and 1997, as it was satisfied that the relevant judgments of the European Court of Human Rights had been appropriately executed.³⁰ In so doing, the Committee of Ministers strongly encouraged the Turkish authorities to pursue their efforts to give direct effect of the Court’s case-law in the implementation of Turkish law.

64. The current proceedings against the AK Party, regardless of their outcome, show that, despite the above-mentioned reforms, the issue of dissolution of political parties in Turkey is not closed. It becomes clear that further constitutional and legislative reforms in this respect are necessary.

65. A full revision of the 1982 Constitution which, despite repeated revisions, still bears the marks of the 1980 military *coup d’Etat*, and a comprehensive review of the Law on Political Parties are required in order to bring these texts fully into line with European standards. In pursuing such reforms, the Turkish authorities should, in particular, envisage introducing stricter criteria for dissolution of political parties, such as condoning or inciting to violence or overt threats to fundamental democratic values, in line with the above-mentioned guidelines of the Venice Commission.

66. The co-rapporteurs on Turkey’s monitoring had supported the idea of a full revision of the Turkish Constitution already in 2004, when they proposed the closure of the monitoring procedure. The assistance of the Venice Commission in carrying out a major constitutional reform, as the Assembly requested when adopting Resolution 1380 and closing the monitoring procedure for Turkey, should be sought.

²⁷ Applications Nos. 21237/93 (*Socialist Party and others v. Turkey*), 22723/93 (*Yazar and others v. Turkey*) and 25141/94 (*Dicle for the Democratic Party (DEP) of Turkey v. Turkey*).

²⁸ The consequences of this conviction could only be erased following Interim Resolution ResDH (99)245 and ResDH(99) 529 and a new judgment by the Court, *Perinçek v. Turkey*, application 46669/99, 21 June 2005, just satisfaction for remaining prejudice.

²⁹ See Assembly Resolution 1516 (2006) on implementation of judgments of the European Court of Human Rights and Doc. 11020.

³⁰ See Resolution CM/ResDH(2007)100.

VI. Conclusions

67. The rapporteur is concerned that, regardless of its outcome, the lawsuit against the ruling party, as well as the Prime Minister and the President of the Republic, is seriously affecting the political stability in the country, as well as the democratic functioning of its institutions and delays urgent economic and political reforms.

68. At the same time, the rapporteur underlines that effective separation of powers and the independence of the judiciary are fundamental principles of a democracy based on the rule of law which should be fully guaranteed by all state institutions. No influence should be exercised on the Constitutional Court of the country. In this respect, the rapporteur is confident that the latter will apply European standards in the field of dissolution of political parties resulting from the case-law of the European Court of Human Rights on Articles 10 (freedom of expression) and 11 (freedom of association and of assembly) of the European Convention of Human Rights and the Guidelines on prohibition and dissolution of political parties, adopted by the Council of Europe's European Commission for Democracy through Law (Venice Commission) in December 1999.

69. The rapporteur notes that respect of the principle of proportionality is of special importance in the field of dissolution of political parties in view of their essential role in ensuring pluralism and the proper functioning of democracy. The European Court of Human Rights has repeatedly stated that the dissolution of a political party, accompanied by a temporary ban prohibiting its leaders from exercising political responsibilities, is the most drastic measure; a measure of such severity should be applied only in the most serious cases.

70. The current proceedings against the AK Party, regardless of their outcome, spark a renewed debate about the legal basis for the closure of political parties in the country and show that, despite the above-mentioned reforms, the issue of dissolution of political parties in Turkey is not closed. It becomes clear that further constitutional and legislative reforms in this respect are necessary.

71. A full revision of the 1982 Constitution which, despite repeated revisions, still bears the marks of the 1980 military *coup d'Etat*, and a comprehensive review of the Law on Political Parties are required in order to bring these texts fully into line with European standards. In pursuing such reforms, the Turkish authorities should in particular envisage introducing stricter criteria for the dissolution of political parties, such as condoning or inciting violence or overt threats to fundamental democratic values, in line with the above-mentioned guidelines of the Venice Commission.

72. When adopting Resolution 1380 and closing the monitoring procedure for Turkey, the Assembly had invited Turkey, as part of its reform's process, to "carry out a major reform of the 1982 Constitution, with the assistance of the Venice Commission, to bring it into line with European standards".

73. It has now become more clear than ever that a new, civilian constitution altogether, guaranteeing an appropriate system of checks and balances and granting a centre place to the protection of human rights and fundamental freedoms, in line with European standards, is urgently required in Turkey to fully ensure the democratic functioning of its institutions and the consolidation of its modernisation and reform process.

74. In this regard, the rapporteur notes the government's initiative to draft a new constitution and considers that this opens a window of opportunity for a broad national debate involving all actors of the society and encourages the government to finalise this process in close cooperation with the Venice Commission.

75. All state institutions should respect each other's competences and join efforts to pursue, with renewed vigour, the much-needed economic and political reforms that will turn Turkey into a modern democracy.

76. The rapporteur believes that the Monitoring Committee should intensify its post-monitoring dialogue with Turkey, closely follow the development of the democratic functioning of the institutions in Turkey and, in particular, the constitutional drafting process, and, if need be, consider the possibility of re-opening the monitoring procedure for Turkey.

Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Reference to committee: No. 3464 of 23 June 2008 and Resolution 1115 (1997)

Draft resolution unanimously adopted by the committee on 24 June 2008

Members of the committee: Mr Serhiy **Holovaty** (Chairperson), Mr György **Frun**da (1st Vice-Chairperson), Mr Konstantin Kosachev (2nd Vice-Chairperson), Mr Leonid **Slutsky** (3rd Vice-Chairperson), Mr Aydin Abbasov, Mr Avet **Adonts**, Mr Pedro Agramunt, Mr Miloš Aligrudić, Mrs Meritxell Batet Lamaña, Mr Ryszard **Bender**, Mr József Berényi, Mr Aleksandër **Biberaj**, Mr Luc **Van den Brande**, Mr Jean-Guy Branger, Mr Mevlüt **Çavuşoğlu**, Mr Sergej Chelemendik, Ms Lise **Christoffersen**, Mr Boriss Cilevičs, Mr Georges **Colombier**, Mr Telmo Correia, Mr Valeriu **Cosarciuc**, Mrs Herta Däubler-Gmelin, Mr Joseph Debono Grech, Mr Juris **Dobelis**, Mrs Josette Durrieu, Mr Mátyás Eörsi, Mrs Mirjana Ferić-Vac, Mr Jean-Charles Gardetto, Mr József **Gedei**, Mr Marcel Glesener, Mr Charles Goerens, Mr Andreas Gross, Mr Michael **Hagberg**, Mr Holger Haibach, Ms Gultakin **Hajiyeva**, Mr Michael **Hancock**, Mr Davit **Harutyunyan**, Mr Andres **Herkel**, Mr Raffi **Hovannisian**, Mr Kastriot **Islami**, Mr Miloš Jevtić, Mrs Evguenia **Jivkova**, Mr Hakki Keskin, Mr Ali Rashid Khalil, Mr Andros **Kyprianou**, Mr Jaakko Laakso, Mrs Sabine **Leutheusser-Schnarrenberger**, Mr Göran Lindblad, Mr René **van der Linden**, Mr Eduard **Lintner**, Mr Younal **Loutfi**, Mr Pietro Marcenaro, Mr Mikhail Margelov, Mr Bernard **Marquet**, Mr Dick Marty, Mr Miloš **Melčák**, Mrs Assunta Meloni, Mrs Nursuna **Memecan**, Mr João Bosco Mota Amaral, Mr Theodoros Pangalos, Ms Maria Postoico, Mr Christos Pourgourides, Mr John Prescott, Mr Andrea **Rigoni**, Mr Dario Rivolta, Mr Armen **Rustamyan**, Mr Indrek Saar, Mr Oliver Sambevski, Mr Kimmo Sasi, Mr Andreas Schieder, Mr Samad **Seyidov**, Mrs Aldona Staponkienė, Mr Christoph Strässer, Mrs Elene Tevdoradze, Mr Mihai Tudose, Mr Egidijus **Vareikis**, Mr Miltiadis Varvitsiotis, Mr José Vera Jardim, Mrs Birutė **Vėsaitė**, Mr Piotr **Wach**, Mr Robert **Walter**, Mr David Wilshire, Mrs Renate Wohlwend, Mrs Karin S. **Woldseth**, Mr Boris Zala, Mr Andrej Zernovski.

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

Secretariat of the committee: Mrs Chatzivassiliou, Mr Klein, Ms Trévisan, Mr Karpenko