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COMMISSION ON HUMAN RIGHTS

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INFORMATION SUBMITTED IN ACCORDANCE WITH ECONOMIC AND
SOCIAL COUNCIL RESOLUTION 1159 (XLI) REGARDING
CO-OPERATION WITH REGIONAL INTERGOVERNMENTAL BODIES
CONCERNED WITH HUMAN RIGHTS

Note by the Secretary-General

At its forty-first session, the Economic and Social Council adopted resolution 1159 (XLI) ^{1/} regarding co-operation with regional intergovernmental bodies concerned with human rights. Under the terms of this resolution, the Council, desiring to make use of all possible information and experience to advance the realization of human rights and fundamental freedoms for all without distinctions as to race, sex, colour or religion, inter alia, invited the Secretary-General to arrange for the exchange of information on matters relating to human rights between the Commission and the Council of Europe, the Inter-American Commission on Human Rights, the Organization of African Unity, the League of Arab States and other regional intergovernmental organizations particularly concerned for human rights.

The present note contains a communication dated 13 January 1976 received from the Council of Europe in response to the Secretary-General's request for information within the framework of the exchange provided for in the resolution.

^{1/} The resolution was adopted at the 1445th plenary meeting of the Council on 5 August 1966.

ACTIVITIES OF THE COUNCIL OF EUROPE IN THE FIELD OF
HUMAN RIGHTS IN 1975

Introduction

At the request of the Secretary General of the United Nations made in accordance with the terms of ECOSOC Resolution 1159 (XLI) of 5 August 1966, the Council of Europe prepared for the United Nations Commission on Human Rights communications about its work relating to human rights in 1968, 1969, 1970, 1971, 1972, 1973 and 1974. The communication for 1968 was distributed to the Commission under reference E/CN.4/L.1042/Add.2. It followed the report of the Council of Europe to the Teheran Conference (doc. A/CONF.32/L.9), which summarised the Council's work in this field up to the end of 1967. The communication for 1969 was distributed under the reference E/CN.4/L.1117/Add.1., that for 1970 under the reference E/CN.4/L.1057/Add.1., that for 1971 under the reference E/CN.4/L.1089/Add.1., that for 1972 under the reference E/CN.4/1120, that for 1973 under the reference E/CN.4/1139 and that for 1974 under the reference E/CN.4/1163.

In accordance with a further request of the Secretary General of the United Nations, the Council of Europe has prepared this further communication about its activities relating to human rights in 1975.

I. State of application of the European Convention on Human Rights

1. All the member States of the Council of Europe have ratified the European Convention on Human Rights as well as Protocol No. 3 and No. 5 ^{1/} Protocol No. 1 to the Convention has been ratified by all member States with the exception of Switzerland and Protocol No. 2 by all the member States with the exception of France.

2. The number of States Parties having recognised the competence of the European Commission of Human Rights to receive individual petitions (Article 25 of the Convention) remains at 13 ^{2/}. The same thirteen States as well as France have recognised the compulsory jurisdiction of the European Court of Human Rights (Article 46 of the Convention).

^{1/} Austria, Belgium, Cyprus, Denmark, Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Sweden, Switzerland, Turkey and the United Kingdom.

^{2/} Austria, Belgium, Denmark, Federal Republic of Germany, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden, Switzerland, United Kingdom (also for 18 overseas territories).

3. By the end of 1975, Protocol No. 4 to the Convention, securing certain rights and freedoms other than those already included in the Convention and the First Protocol 3/ was in force among 10 States - Austria, Belgium, Denmark, the Federal Republic of Germany, France, Iceland, Ireland, Luxembourg, Norway and Sweden. These governments have also extended their acceptance of the compulsory jurisdiction of the European Court of Human Rights to applications concerning the rights guaranteed in the Fourth Protocol. Nine of them have extended their acceptance of the right of individual petition.

4. The European Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights, which entered into force on 17 April 1971, had been ratified, by 31 December, 1975 by 10 States (Belgium, Cyprus, Ireland, Luxembourg, Malta, Netherlands, Norway, Sweden, Switzerland and the United Kingdom).

II. ACTIVITIES OF THE EUROPEAN COMMISSION OF HUMAN RIGHTS

A. Inter-state Applications

5. The application brought by the Irish Government against the United Kingdom Government concerning the situation in Northern Ireland, declared admissible in October 1972, has extensively exercised the Commission in the last 12 months. Witnesses had to be heard before the members of the Commission no fewer than eight times in order to ascertain the facts of the case: 118 persons were heard, and the record of their testimony runs to over 4,000 pages. They were heard in Strasbourg or, for certain security reasons, at the air base of Sola, near to Stavanger, made available by the Norwegian Government, and in one case in London. They took place in 1974 and early in 1975. Subsequently, during a hearing that lasted 5 days, in March 1975, the parties presented their arguments and conclusions on the evidence obtained. The delegations were led by the Attorney General of each of the States involved. The Commission is currently engaged in drawing up the report which it will send to the Committee of Ministers, in accordance with Article 31 of the Convention.

6. After a hearing in Strasbourg on 22 and 23 May 1975, the Commission declared that the two applications brought by the Cypriot Government against the Turkish Government, on whose joinder it has previously decided, were admissible. The applications in question concern the situation stemming from the Turkish intervention in Cyprus. The applicant Government alleged that the Turkish authorities violated a series of Convention provisions, including those guaranteeing the rights to life, liberty, a fair trial, respect for private and family life, and the bans on torture and inhuman treatment or punishment, slavery and forced labour and discrimination concerning enjoyment of the rights guaranteed. The Government alleged to have committed the violations disputed the applicant's fitness to represent the State of Cyprus; it maintained that not all domestic remedies had been exhausted, and that the Cypriot zone, in which the deeds in question were alleged to have taken place, did not come under the jurisdiction of the Turkish Government. It argued that the applications were an abuse of the right of petition. The Commission's decision on admissibility in no way affected the validity of the applications.

3/ Freedom from imprisonment for debt; freedom of movement and of choice of one's residence; freedom from expulsion from and the right to enter one's own country; prohibition of the collective expulsion of aliens.

A Commission delegation then went to Cyprus, where it heard numerous witnesses and visited two refugee camps. The account of their mission was submitted to the parties for observation, and in December 1975 the Commission examined their comments.

B. Individual applications

7. Over 450 new individual applications were registered during the course of 1975. The Commission reached conclusions during that period on the admissibility of 364 applications, 4 of which were declared admissible, namely:

König against the Federal Republic of Germany. The applicant is a German doctor whose right to direct a private clinic belonging to him was withdrawn by the relevant administrative authorities. His right to practise medicine was also withdrawn following disciplinary proceedings. The applicant appealed to the administrative courts against the decisions in question, and complains of the length of the proceedings, on the grounds of paragraph 1 of Article 6 of the Convention.

X. against the Netherlands. This application is concerned with the lawfulness of the detention of a person regarded as mentally defective, and the range and practical details of the controls to ensure that such detention is lawful, as provided for in paragraph 4 of Article 5 of the Convention (entitlement of a person deprived of his liberty to take proceedings before a court). One of the applicant's allegations is that he was not heard by the judge who on a number of occasions gave authority for his detention to be extended, and not informed of his decisions.

Marckx against Belgium. This application has been brought by Mrs. Paula Marckx, journalist, on her own behalf and on behalf of her daughter, born in 1973. The applicant challenges the status of illegitimate children, as defined by current legislation in Belgium, particularly in respect of affiliation, rights of inheritance and entitlement to receive gifts. She alleges that this status, which is tantamount to a "capitis diminutio", is contrary to Article 8 (right to respect for private and family life) and Article 3 (prohibiting degrading treatment) of the European Convention on Human Rights. She also alleges that it effects a discrimination, which is contrary to Article 14 of the Convention, between legitimate and illegitimate children, and also between unmarried and married mothers.

Times Newspaper Ltd and others against the United Kingdom. In September 1972 the Sunday Times announced that it intended to publish a long article describing the history of the tests, manufacture and certain tragic effects of the drug "thalidomide".

At the request of the company manufacturing and selling the drug in the United Kingdom, the courts ruled that the article must not be published, on the grounds that it might impede the course of legal proceedings, to wit action brought by some of the victims and negotiations between those victims and the manufacturers.

The applicants maintain that the ruling is an infringement of freedom of expression, which is guaranteed by Article 10 of the Convention.

In December 1975 the representatives of the parties appeared before the Commission in a hearing at which the merits of the case were examined.

The Commission adopted its report (Article 31 of the Convention) on the following four cases, the first two of which it has referred to the European Court of Human Rights:

Kjeldsen, Madsen and Pedersen against Denmark. These applications challenge the provisions which came into force in 1971, whereby sex education is compulsory in Danish state schools. The subject is not taught separately, but is integrated with the other subjects in the curriculum. The applicants argued before the Commission that the provisions in question did not enable them to have their children taught in conformity with their own religious and philosophical convictions (Article 2 of the Protocol to the Convention).

Handyside against the United Kingdom. The applicant, who is the proprietor of a London publishing house, proposed publishing a book entitled "Little red schoolbook" translated into English from the original Danish. Numerous copies were seized by the authorities even before the book was published and the applicant was fined for holding an obscene work for commercial purposes. A revised edition appeared subsequently and is currently on sale in the United Kingdom. The applicant complained to the Commission of the action taken in respect of the "Little red book", invoking in particular Article 10 of the Convention (every person's entitlement to the peaceful enjoyment of his possessions).

Levy against the Federal Republic of Germany. The applicant was arrested on suspicion of murder in December 1970, in Frankfurt, and remained thereafter in detention, release on bail having been refused. He was sentenced in December 1973 to 15 years' imprisonment for homicide. His application to the Commission is concerned with the length of time during which he was remanded in custody.

Müller against Austria. After 37 years' affiliation to the Austrian social security system, the applicant continued after being recruited by a firm in Liechtenstein to pay his contributions in Austria, on a voluntary basis.

When he reached retirement age, it was decided that his voluntary contributions should not be taken into consideration, for the calculation of his ordinary pension, because of a convention concluded between Austria and Liechtenstein in 1969. He claims to be out of pocket and to be the victim of discrimination.

8. The Commission has submitted a brief report to the Committee of Ministers, for information, concerning the Vampel against Austria case, following the applicant's withdrawal of his application, following his pardon by the President of the Republic of Austria in April 1975. The applicant, who was condemned for murder in 1970, complained about the length of his remand in custody.

9. The other applications examined by the Commission either for their admissibility or merits, include the following:

- A number of individual applications brought against the United Kingdom concerning the situation in Northern Ireland, including those of MM Donnelly and others, resulting in witnesses being heard in Belfast and Kent in June 1975, and in a hearing in Strasbourg in December 1975.
- Various applications against Iceland, concerning the possession of dogs in Iceland, which is in principle prohibited in towns in accordance with the health regulations.

- An application against the United Kingdom concerning corporal punishment in force in the Isle of Man.
- The application brought against Denmark by Mr. Becker, who is afraid that 204 children authorised to stay in Denmark, in accordance with Article 24 of the Geneva Convention relative to the protection of civilian persons in time of war, will be sent back to Vietnam.
- The application brought against the United Kingdom (and declared inadmissible in May 1975) by Ilse Hess, wife of the former Nazi leader Rudolf Hess, who has been imprisoned in Spandau since 1947. The applicant's allegations included the statement that her husband's prolonged imprisonment constituted treatment that was contrary to Article 3 of the Convention.
- The application brought by two women against the Federal Republic of Germany concerning the problem of abortion. The applicants are protesting against the ruling of the Federal Constitutional Court, declaring the law whereby criminal proceedings may not be brought for terminations of pregnancy, carried out in certain conditions, to be unconstitutional.

10. Lastly, at its July 1975 session, the Commission re-elected Mr. J. E. S. Fawcett (British) to the office of President, and Mr. G. Sperduti (Italian) to that of Vice-President. It elected Mr. C.A. Nørgaard (Danish) to be its second Vice-President.

III. Activities of the European Court of Human Rights

11. In the course of 1975 the European Court of Human Rights has delivered two judgments.

12. In the Golder Case concerning the United Kingdom, the Court, by a judgment of 21 February 1975 found that the European Convention on Human Rights had been violated in two respects.

The case originated from an application by Mr. Golder to the Commission, alleging that the Home Secretary's refusal to allow him to consult a solicitor while serving a prison sentence with a view to suing a police officer for slander had deprived him of his right of access to a court, thereby infringing Article 6 (1) of the European Convention. He also alleged that Article 8 had been violated as the Home Secretary's refusal had prevented him from corresponding with a lawyer.

Analysing the facts, the Court in its judgment points out that, without being formally denied access to the courts, Mr. Golder was effectively prevented from commencing in 1970 the action which he had in mind.

Noting that the right of access to the courts is not stated in express terms, the Court rules that Article 6 para. 1 nonetheless embodies this right, the right to institute proceedings in civil matters being one aspect of what the judgment terms the "right to a court". The Court reached this conclusion after a lengthy statement of reasons based on the text and context of Article 6 para. 1, the purpose and object of the Convention and certain general principles of law.

Without going into the general question of what regulations or limitations may be permitted in matters of access to the courts, the Court observes that Mr. Golder was seeking to exculpate himself of an accusation made against him, that the incident occurred while he was imprisoned and was connected with prison life, and that the contemplated legal proceedings would have been directed against a member of the prison staff subject to the Home Secretary's authority. The Court considers that in these circumstances Mr. Golder could justifiably have wished to consult a solicitor with a view to instituting legal proceedings and that it was not for the Home Secretary himself to appraise the prospects of the action contemplated.

In relation to the claim under Article 8 the Court holds that, while there was neither stopping nor censorship of any message such as a letter which Mr. Golder would have written to a solicitor, "impeding someone from even initiating correspondence" which was what happened in the present case, "constitutes one of the most far-reaching forms of 'interference' ... with the exercise of the 'right to respect for correspondence'."

The Court states that the right to respect for correspondence is not subject to "implied limitations" and that it cannot discern how the Home Secretary's decision could be justified by the provisions of paragraph 2 of Article 8.

In conclusion the Court holds that the refusal of Mr. Golder's petition violated Article 6 para. 1 (nine votes to three) and Article 8 (unanimously). Considering that the question of affording just satisfaction was "ready for decision", it has decided (unanimously) that its "preceding findings amount in themselves to adequate just satisfaction under Article 50".

13. By judgment delivered on 27 October 1975 the Court has held that there has been no breach of the European Convention in the National Union of Belgian Police Case concerning Belgium.

The case relates principally to freedom of association, including the right to form and join trade unions for the protection of one's interests (Article 11 of the European Convention). The case originated in an application which the Union lodged with the Commission on 5 March 1970. The applicant Union was established to protect the occupational interests of all members of the municipal police. It alleges that Belgium has violated the Convention by refusing to accept it as one of the most representative unions and consequently excluding it from the consultation with trade unions provided for in Belgian legislation.

In its report, the Commission expressed the opinion that there had been no breach of the Convention. The Commission nevertheless referred the case to the Court, emphasising the importance of the questions that arose therein.

In its judgment the Court first notes that Article 11 para. 1 "does not guarantee any particular treatment of trade unions, or their members, by the State, such as the right to be consulted by it". The Court understands the terms of this provision as nonetheless showing "that the Convention safeguards freedom to protect the occupational interests of trade union members by trade union action, the conduct and development of which States must both permit and make possible". In the Court's opinion, "it follows that the members of a trade union have a right, in order to protect their interests, that the trade union should be heard". Without doubt,

Article 11 para. 1 "leaves each State a free choice of the means to be used towards this end. While consultation is one of these means, there are others". What the Convention requires, "is that under national law trade unions should be enabled, in conditions not at variance with Article 11, to strive for the protection of their members' interests".

The Court points out that the applicant union can engage in various kinds of activity vis-a-vis the Belgian Government, and that the respondent State's general policy of restricting the number of organisations to be consulted is not on its own incompatible with trade union freedom. The unanimous finding of the Court is thus that there is no violation of Article 11 para. 1.

The Court then considers whether the differences in treatment between the applicant union and the organizations consulted in accordance with the Belgian legislation are of a discriminatory nature, within the meaning of Article 14 of the Convention.

To begin with, the Court recalls that the aim of the impugned legislation is to avoid "trade union anarchy" and "to ensure a coherent and balanced staff policy, taking due account of the occupational interests of all provincial and municipal staff".

What remains to be seen is whether or not the disadvantages suffered by the members of the applicant union are excessive. In this regard, the Court states that the measure contained in the Royal Decree of 2 August 1966 "is a proper means of attaining the legitimate aim sought to be realised" insofar as "consultation covers questions of a general nature which are of interest to all provincial and municipal staff". There is undoubtedly "the further fact of denying the applicant union the right to be consulted on certain matters which concern the municipal police alone", but various factors lead the Court to consider that even on this latter issue "the principle of proportionality has ... not been offended".

Consequently, by ten votes against four, the Court arrives at the decision that there is no discrimination contrary to Articles 11 para. 1 and 14, read together.

14. In the course of 1975 there were held before the Court public hearings relating to the Swedish Engine Drivers' Union Case, the Schmidt and Dahlström case, and the Engel and others case.

The Swedish Engine Drivers' Union case, which concerns the Kingdom of Sweden, was referred to the Court by the European Commission of Human Rights on 7 October 1974. The case originated in an application lodged with the Commission by the union in question, which numbers about 1,200 members employed by the Swedish State Railways. The applicant union alleges violation of Articles 11, 13 and 14 of the European Convention on Human Rights in that the National Collective Bargaining Office refused, with effect from October 1968, to enter into a new agreement with it relating to conditions of work and employment. According to the applicant union, this refusal was a consequence of the Office's policy of, as far as possible, entering into general agreements with only the major Swedish trade union federations, the terms of which would apply to all government employees.

The Schmidt and Dahlström case, which concerns Sweden, was referred to the Court by the European Commission of Human Rights on 9 October 1974. The case originated in an application lodged with the Commission on 9 June 1972 by Mr. Schmidt, a professor at the University of Stockholm, and by Mr. Dahlström, an officer in the Swedish Army. Each of the applicants is a member of a trade union affiliated with one of the trade union federations for state employees in Sweden. The applicants allege violation of Articles 11 and 14 of the European Convention on Human Rights in that in 1971 they were denied the benefit of a retroactive increase of salary by reason of their membership of unions that had engaged in selective strikes after the break-down of negotiations for a new collective agreement.

The case of Engel and others was brought before the Court by the European Commission of Human Rights on 8 October 1974 and then by the Netherlands Government on 17 December 1974. The case originated in applications against the Netherlands, lodged with the Commission in 1971 by five Netherlands servicemen: Mr. Engel, Mr. van der Wiel, Mr. De Wit, Mr. Dona and Mr. Schul. All applicants allege violations of Articles 5, 6 and 14 of the European Convention on Human Rights. They consider that military disciplinary punishment inflicted upon them constituted a deprivation of liberty which, both in itself and in the procedure followed, was incompatible with Article 5. Furthermore, in their view the proceedings complained of were discriminatory in violation of Article 14. Mr. Dona and Mr. Schul also allege violations of several other Articles of the Convention.

15. In the course of 1975 the European Commission referred to the European Court of Human Rights the three Sex Education Cases.

These cases originated in applications against Denmark, lodged before the Commission in 1971 and 1972 by three Danish couples, Mr. and Mrs. Kjeldsen, Mr. and Mrs. Busk Madsen and Mr. and Mrs. Pedersen. The three separate applications involved were joined by decision of the Commission.

The applicants who are parents of families, objected to the idea of compulsory sex education at school for their children, as provided for by the Danish Act of 25 May 1970, and they had unsuccessfully requested the competent authorities to exempt their children. They considered that sex education raised ethical questions and so preferred to carry out themselves their children's instruction in this sphere. They claim that the above-mentioned Act infringes the right of parents to have their children taught in conformity with their own religious and philosophical convictions, as guaranteed by Article 2 of the First Protocol to the European Convention on Human Rights.

Sex education in Denmark had for some years constituted an optional part of the school curriculum. In May 1970 however, the Danish Parliament passed an Act making sex education compulsory. The new legislation provided that sex education was not to be presented as a separate subject, but should instead be integrated in the teaching of other subjects.

IV. Activities of the Committee of Ministers of the Council of Europe with respect to the implementation of the European Convention on Human Rights

16. In the course of 1975 the Committee of Ministers was called in two instances to exercise its functions under Article 32 of the European Convention.

17. In the case of Kamma against the Netherlands, the Committee of Ministers has decided that there was no violation of the Convention. On 13 January 1971, Mr. Jacob Kamma, a national of the Netherlands, had submitted an application to the European Commission claiming violation of several articles of the European Convention. In a decision of 21 July 1972, the European Commission declared admissible the complaint that there had been a violation of Article 18, together with Article 5 of the Convention, in that the police had taken advantage of the applicant's detention on remand to conduct investigations for one month into a murder of which he was accused, although at that time he was neither detained in connexion with the murder, nor had judicial investigations into that case begun.

Having examined the merits of the case and considered all the available information, the Commission concluded, for the reasons stated in its report, which has been published, that there had been no violation of Articles 18 and 5 of the Convention. The Committee of Ministers has endorsed the Commission's opinion and has adopted the Resolution DH (75) 1 on this case.

18. The Committee of Ministers has also considered in accordance with Article 32 of the Convention the case of Huber against Austria. On 16 June 1970 Mr. Herbert Huber, Austrian national, introduced an application before the European Commission complaining of violation of several articles of the Convention on Human Rights alleged to have taken place during his detention. In its decision of 14 July 1971, the European Commission declared admissible the complaint alleging violation of Article 6 (1) of the Convention by reason of the length of the criminal proceedings against the applicant.

Having examined the merits of the case and considered all the available information, the Commission concluded by eight votes to two that the total period required to determine the criminal charges against the applicant was not reasonable within the meaning of Article 6 (1) of the Convention and that there had therefore been a breach of that provision in this case.

When this case was considered by the Committee of Ministers, the Austrian Government submitted a memorandum in which it was stated that in view of the complexity of the proceedings, of the difficulties resulting from the rogatory commissions requested from various countries and of the obstructive conduct of the applicant, Article 6 (1) of the Convention had not been violated. The Committee of Ministers having voted in accordance with the provision of Article 32 (1) of the Convention but without the majority of two-thirds of the members entitled to sit having been attained, has decided that no further action is called for in this case. The Committee of Ministers has also decided to publish for information the Report of the European Commission on this case and the Resolution DH (75) 2 which it has adopted.

V. Other activities of the Committee of Ministers of the Council of Europe with respect to Human Rights

a. Gussenbauer against Austria

19. The Committee of Ministers has taken note of the report of the European Commission on this case, in which the Commission found that a friendly settlement had been secured in accordance with Article 28 (b) of the European Convention, on the basis of respect for human rights as defined in the Convention.

b. Vampel against Austria

20. The Committee of Ministers has taken note of the report of the European Commission on this case. In June 1972 the Committee of Ministers had considered the provisional report transmitted by the European Commission on this case under Article 31 (2) of the European Convention. In this report the Commission had expressed its provisional opinion that the applicant's detention on remand was in respect of a particular period unreasonably long and violated Article 5 (3) of the Convention but had decided that the report must be provisional in view of the fact that the negotiations for a friendly settlement had with the consent of the parties been suspended.

In its recent report, the Commission has found that the applicant's position has substantially changed as a result of the pardon granted to him by the Federal President of Austria and that this justifies the termination of the case by striking it off the list following its withdrawal by the applicant.

c. Free legal aid before the European Commission of Human Rights.

21. The Committee of Ministers has agreed that paragraph 4 of the Appendix to Resolution (63) 18 on the Grant of free legal aid to individuals who have submitted an application to the European Commission should be so interpreted as to include the repayment of expenses incurred by the applicant or the persons appointed to represent or assist him for work done in connection with the application prior to the decision to grant free legal aid.

d. Fourth International Colloquy on the European Convention on Human Rights

22. The Fourth International Colloquy on the European Convention on Human Rights was held in Rome from 5-8 November 1975. The theme of this Colloquy organized by the Secretariat General of the Council of Europe and the Ministry for Foreign Affairs of the Republic of Italy was "Twenty-five years of European Protection of Human Rights - the European Convention on Human Rights 1950-1975". Six topics were discussed by the participants, about 300 specialists on human rights (university professors, judges, etc.) from the 18 Council of Europe Member States and a number of non-European countries. In the afternoon of 5 November there was the celebration of the 25th anniversary of the signature of the Convention in Palazzo Barberini with the presence of the President of the Republic of Italy and leading personalities of the Republic of Italy and the Council of Europe.

VI. The European Social Charter

23. The European Social Charter, which is the counterpart in the social field of the Human Rights Convention, was signed on 18 October 1961 and entered into force on 26 February 1965, after being ratified by the United Kingdom, Norway, Sweden, Ireland and the Federal Republic of Germany. It has since been ratified by Denmark, Italy, Cyprus, Austria and France.

The nature of the rights guaranteed entails a rather special system of supervision based on the Contracting Parties' submission of biennial reports on the matters covered by those provisions of the Charter which they have accepted. Copies of these reports are sent to certain national employers' and employees' organizations, whose comments are then sent to the Secretary General of the Council of Europe. The supervision procedure consists in the examination of these reports and comments by a Committee of Independent Experts and by a Governmental Committee, on which at present one national organization of employers and one international trade union organization are present as observers in a consultative capacity. These committees' conclusions are forwarded to the Consultative Assembly and the Committee of Ministers of the Council of Europe. The Committee of Ministers is entitled, under Article 29, to make any necessary recommendations to each Contracting Party.

The first cycle of supervision ended on 12 November, 1971 with the Committee of Ministers' adoption on Resolution (71) 30.

24. The second cycle, which covered the years 1968-1969, was completed on 29 May 1974 when the Committee of Ministers adopted a resolution (Resolution (74) 16). Acting in pursuance of Article 29 of the Charter, the Committee of Ministers decided in this Resolution to:

1. transmit to the governments of the States concerned Conclusions II of the Committee of Independent Experts, the second report of the Governmental Committee, as well as the relevant Opinion of the Consultative Assembly.
2. draw the attention of these governments to the observations formulated in the documents mentioned under 1 above, especially as regards the action required to make their national legislation and practice comply with the obligations deriving from the Charter.

25. The third cycle of supervision covers the years 1970 and 1971. The Committee of Independent Experts completed its work in 1973 with the adoption of "Conclusions III". These were examined during 1974 by the Governmental Committee, which adopted its report on 8 November. In accordance with Article 28 of the Charter, "Conclusions III" and the Governmental Committee's report have been referred to the Consultative Assembly which considered them at its April 1975 session and adopted Opinion No. 71 (1975).

All the documents appeared before the Committee of Ministers on 17 October 1975 which took a decision as the fourth and last controlling authority of the supervision of the implementation of the Charter. The Resolution adopted (Resolution (75) 26) read as follows:

"The Committee of Ministers acting in accordance with Article 29 of the Charter,

1. Decides to forward to the governments of ...
[the States concerned] ... Conclusions III of the Committee of Independent Experts, the Governmental Committee's third Report and the Consultative Assembly's Opinion No. 71;
2. Draws the attention of governments of these States to the comments contained in the documents mentioned in paragraph 1 above, and in particular to items 6, 7 and 8 of the Assembly's Opinion, concerning the steps necessary to bring national legislation and practice more closely into line with the obligations ensuing from the Charter."

The part referring to the Assembly's opinion concerns the section of the Opinion No. 71 where the Committee of Ministers is urged to make recommendations to States for the strict application of the Social Charter and where it is proposed that the Committee should invite the States concerned to make their legislation and practice on stated points conform to the provisions of the Charter. Moreover, it is proposed that the Committee communicates to the States concerned the observations of the Independent Experts concerning the rights of men and women workers to equal pay for work of equal value.

26. The control of the fourth cycle, covering 1972 and 1973, began in 1974. The reports submitted by the Contracting Parties have already been examined by the Committee of Independent Experts which will soon adopt its "Conclusions IV". France's first report will be submitted during the fifth cycle. The Governmental Committee is expected to start considering the reports for the fourth cycle of supervision early in 1976.

27. Over the period of the four cycles of supervision, it was found both by the Independent Experts and the Governmental Committee that continuous progress was being made by the Contracting Parties in improving their compliance with the provisions of the Charter. This was particularly made evident by the considerable number of changes which have been introduced in laws, regulations and practices of the different member countries to bring their national situation into closer conformity with the requirements of the Charter. These instances of practical progress illustrate the dynamic nature of the Charter's supervisory system.

During the fourth cycle of supervision it was found by the Committee of Independent Experts that most Contracting Parties mentioned in their reports cases where they had already amended their legislation or other cases for which revision of certain laws was under preparation.

28. Some examples of these new achievements noted during the fourth cycle of control of the implementation of the Charter include the following:

- in Austria, new legislation entered into force on 1 January 1975 with regard to one aspect of the prohibition of corresponding labour and abrogated the provisions of the 1885 Vagrancy Act and Section 305 of the Criminal Code which the Committee had judged to be incompatible with the free choice of employment guaranteed by Article 1 (2) of the Charter.
- In Cyprus the reform of the Social Insurance Law which entered into force on 1 January 1973 brought about considerable improvements in the system of social security and it could be henceforth assessed that Cyprus had a genuine social security system and complied therefore with Article 12 (1) of the Charter.
- In Denmark the entry into force of the Merchant Shipping Act as from 13 June 1973, brought Danish legislation into line with Article 1 (2) of the Charter.
- In the Federal Republic of Germany it has been decided to reduce the period of three years required normally for migrant workers to be joined by their families to one year for the nationals of all the Contracting States of the Social Charter. This rendered the German situation in conformity with Article 19, paragraph 6, of the Charter concerning family reunion.
- In Ireland the new 'Local Election Act' of 1972 and the "Schedule to Local Government Order (1878) amended" abolished the existing discrepancies between the Irish law and Article 13, paragraph 2, of the Charter.
- In Norway an amendment to the law permitting sanctions to be imposed on seamen who quit their employment is before Parliament and if passed would conform with Article 1, paragraph 2 of the Charter.
- In Sweden a new legislation on seamen has entered into force which is compatible with the requirements of Article 1, paragraph 2 of the Charter.
- In the United Kingdom wives and children of permanent residents are from January 1973 no longer refused entry on medical grounds. This development appeared to bring the situation into line with one of the requirements of Article 19 (6) of the Charter.

In addition to any further ratifications by States which have already signed the Charter, it may be hoped that the number of undertakings entered into by the present Contracting Parties will also increase particularly as a result of changes in domestic legislation.

Already a number of Council of Europe member States, which have not yet become Contracting Parties to the European Social Charter, have shown strong interest in ratifying it. In some cases - Luxembourg and Iceland - a bill authorising the government to ratify the Charter is already before Parliament for discussion.

The different organs of the supervision of the Charter have raised the question of arrangements for implementing Article 22 of the Charter; this Article concerns reports on the provisions which the Contracting Parties have not yet accepted.

29. The system of supervision also provides an excellent channel of communication between the Contracting Parties' governmental experts, the employers' and employees' organizations, the independent experts, parliamentarians and the Committee of Ministers. This continuous dialogue, though difficult to translate into figures, cannot but further progress in the social field.

VII. Parliamentary Assembly of the Council of Europe

30. In the course of 1975, the Assembly adopted the following texts dealing with human rights and related matters:

- Recommendation 757 (1975) on the conclusions of the meeting of the Assembly's Legal Affairs Committee with the Ombudsmen and Parliamentary Commissioners in Council of Europe Member States, which reads as follows:

"The Assembly,

1. Welcoming the meeting which its Legal Affairs Committee held with the Ombudsmen and Parliamentary Commissioners in Council of Europe member States (Paris, 18-19 April 1974);
2. Considering that Ombudsmen, Parliamentary Commissioners etc., serve a twofold purpose of paramount importance, namely the protection of individuals against maladministration by public authorities, and the promotion of good government in general;
3. Aware that public authorities today regulate more and more aspects of human life;
4. Considering that, whereas states have taken up for themselves the safeguard of man's fundamental rights and liberties, these very rights and liberties can be jeopardized by the encroachings of public authority upon the private life of the individual;
5. Considering further that the usual forms of judicial control are not always suited to cope with sufficient speed and efficacy with all the facets and intricacies of present-day administration;
6. Convinced that there is need for an additional guarantee that should be simpler, quicker, less expensive and more flexible in its operation than existing judicial remedies;
7. Believing that this guarantee can be provided by an Ombudsman or Parliamentary Commissioner;

8. Convinced also that, through the information and assistance he gives to parliament, the Ombudsman contributes to strengthening parliamentary control over the executive;
9. Welcoming the remarkable extension at national and local level of the institution of the Ombudsman or Parliamentary Commissioner that has taken place in Europe in recent years,
10. Recommends that the Committee of Ministers invite the governments of those member states which have not yet done so, to consider the possibility of appointing at national, regional and/or at local level persons discharging functions similar to those of existing Ombudsmen and Parliamentary Commissioners."

- Resolution 596 (1975) on the implementation of Article 57 of the European Convention on Human Rights, which reads as follows:

"The Assembly,

1. Having considered the replies received from governments to the inquiry made in 1970 by the then Secretary General on the implementation of Article 5, paragraph 5, of the European Convention on Human Rights, in accordance with Article 57 of the Convention;
2. Considering that the replies given by governments to this inquiry are on the whole interesting and satisfactory, and that they may contribute to the effective implementation of the Convention in Council of Europe member states,
3. Notes with satisfaction the initiative taken in 1970 by the Secretary General;
4. Welcomes the recent initiative taken by the present Secretary General by making an enquiry on the application of Articles 8, 9, 10 and 11 of the Convention;
5. Expresses the hope that the Secretary General will continue to make use of his powers under Article 57 of the Convention."

- Resolution 597 (1975) on the optional clauses of the European Convention on Human Rights, which reads as follows:

"The Assembly,

1. Welcoming the fact that the European Convention for the Protection of Human Rights and Fundamental Freedoms is now in force in all 18 member states of the Council of Europe;
2. Considering that the right to individual petition and the European Court of Human Rights are among the most important new features of the Convention, as they provide for an effective implementation at European level of human rights laid down in the Convention;
3. Considering, that recognition of the right to individual petition and recognition of the compulsory jurisdiction of the Court of Human Rights (Articles 25 and 46 of the Convention) are optional and subject to declarations made by the governments of Contracting States;

4. Regretting that 5 Council of Europe member states have not recognized the right to individual petition, while 4 member states have not recognized the compulsory jurisdiction of the Court.

5. Regretting that these member states therefore do not allow individual persons, non-governmental organizations and groups of individuals under their jurisdiction to apply to the European Commission of Human Rights,

6. Calls upon those member states which have not yet recognized the right of individual petition and the compulsory jurisdiction of the European Court of Human Rights to do so as soon as possible."

- Recommendation 768 (1975) on torture in the world, which reads as follows:

"The Assembly,

1. Appalled by the fact that torture is practised in over sixty countries;
2. Considering that it is not a question of excesses committed by individuals or groups acting deliberately outside the law, but that torture is carried out by agents of the state, not only with the approval, but also on the orders of their governments;
3. Considering that some governments systematically train their officials in methods of torture;
4. Convinced that the Assembly of the Council of Europe cannot remain indifferent while in certain countries human rights are being gravely violated;
5. Considering that torture is one of the most horrible and perverse forms of brutality which men can inflict on each other, either physically or morally;
6. Stressing most strongly that torture is one of the most serious violations of human rights;
7. Welcoming the fact that the Council of Europe has adopted instruments to ensure that human rights are respected in its member states, and that Article 3 of the European Convention on Human Rights stipulates that no one must be subjected to torture;
8. Believing that extradition or expulsion to countries where torture is practised or tolerated by governmental bodies is contrary to Article 3 of the European Convention on Human Rights,
9. Recommends that the Committee of Ministers:
 - a. agree formally on the principle laid down in the conclusions of the meeting of 1969 on the application of the European Convention on Extradition concerning refusal of extradition if inhuman treatment might result from such action;
 - b. examine the possibilities for member states to revise their conventions on extradition and mutual assistance in legal matters concluded with countries where torture is practised or tolerated by governmental bodies, and study, in addition, the practices followed by those countries in the matter of expulsion."

VIII. Publications

31. The sixteenth volume of the Yearbook of the European Convention on Human Rights, covering the year 1973, was published in 1975. The Yearbook contains general information on the Convention, the Commission and the Court, selected decisions of the Commission on the admissibility of applications, decisions of the Committee of Ministers and judgements of the Court, and information about the application of the Convention in national law by the courts of certain member States.

32. The Directorate of Human Rights has issued in 1975 a publication on the national aspects of the European Convention on Human Rights and the proceedings of the Round Table on Press Councils held in Stockholm in September 1974.

The first volume of the "Travaux Préparatoires" of the European Convention on Human Rights was published in 1975.