First International Democracy Report 2011

The democratization of international organizations

edited by
Giovanni Finizio
Lucio Levi
Nicola Vallinoto

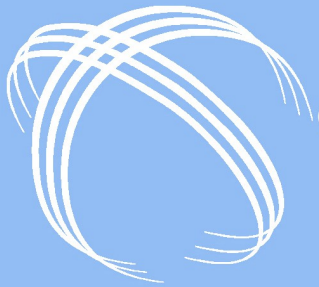
CENTRE FOR STUDIES ON FEDERALISM

First International Democracy Report 2011

Council of Europe

by

Kundai M. Sithole



CENTRE FOR STUDIES ON FEDERALISM

1. Introduction

The European Convention on Human Rights (ECHR) forms the bedrock of the most advanced regional system of international human rights protection. Yet, very little is known of the organisation from which the ECHR is derived. Created in the aftermath of the Second World War, the Council of Europe (CE) is the oldest regional organisation in Europe. As Europe's watchdog for democracy and human rights, the CE facilitates the development of democratic institutions, and human rights protection within its member states. However, there is currently no literature on the development of democracy within the regional organisation. Faced with this yawning gap within both European Integration Studies, and International Relations scholarship, this chapter examines the development of democracy *in* the CE.

The chapter introduces the reader to the CE, and its role as a regional organisation. Section 1 summarises the organisation's origins in the aftermath of the second world war. Section 2 outlines the CE's key institutions, which are the intergovernmental Committee of Ministers, and the Parliamentary Assembly. The CE's role in consolidating democracy in the region forms the basis of Section 3. An analysis of the development of democracy within the regional organisation then follows (Section 4). Given the importance of human rights protection to the CE's *raison d'être*, Section 5 examines the organisation's human rights mandate with a particular emphasis on its human rights pillars. Section 6 then concludes this chapter with an appraisal of the development of democracy in the CE.

2. Origins of the Council of Europe

The CE was created in the aftermath of the Hague Congress of 8 to 10 May 1948, which had sought to explore the possibilities for long-term cooperation within the context of a European Assembly. As Europe's first post-war regional organisation, the CE was intended to avert the possibility of another war by contributing to the safeguard of Western democratic states against the threat of Soviet communism, and potential German militarism (Smithers 1970). The CE's member states, and accession dates, are shown in Table 2.1 below.

Table 2.1: Council of Europe member states

Council of Europe Member States	Accession date	Council of Europe Member States	Accession date
Albania	13-Jul-1995	Lithuania	14-May-1993
Andorra	10-Nov-1994	Luxembourg	05-May-1949
Armenia	25-Jan-2001	Malta	29-Apr-1965
Austria	16-Apr-1956	Moldova	13-Jul-1995
Azerbaijan	25-Jan-2001	Monaco	05-Oct-2004
Belgium	05-May-1949	Montenegro	11-May-2007
Bosnia and Herzegovina	24-Apr-2002	Netherlands	05-May-1949
Bulgaria	07-May-1992	Norway	05-May-1949
Croatia	06-Nov-1996	Poland	26-Nov-1991
Cyprus	24-May-1961	Portugal	22-Sep-1976
Czech Republic[1]	30-Jun-1993	Romania	07-Oct-1993
Denmark	05-May-1949	Russia	28-Feb-1996
Estonia	14-May-1993	San Marino	16-Nov-1988
Finland	05-May-1989	Serbia	03-Apr-2003
France	05-May-1949	Slovak Republic	30-Jun-1993
Georgia	27-Apr-1999	Slovenia	14-May-1993
Germany	13-Jul-1950	Spain	24-Nov-1977
Greece	09-Aug-1949	Sweden	05-May-1949
Hungary	06-Nov-1990	Switzerland	06-May-1963
Iceland	07-Mar-1950	FYR Macedonia	09-Nov-1995
Ireland	05-May-1949	Turkey	13-Apr-1950
Italy	05-May-1949	Ukraine	09-Nov-1995
Latvia	10-Feb-1995	United Kingdom and Northern Ireland	05-May-1949
Liechtenstein	23-Nov-1978		

The Preamble of its Statute appeals to the "spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy." These values appeal to the member states' cumulative moral heritage based on Greek philosophy, Roman law, Christianity, and the French Revolution (Robertson 1973; Greer and Williams 2009). As Trommer and Chari (2006: 677) highlight, the CE's aims are rooted in "pacifism, transnationalism and human rights."

The CE was novel in that Article 3 of its Statute restricted its membership to liberal democracies, thus distinguishing it from other emerging international and regional organisations (Smithers 1970). Its standing as an "association of democratic states" (Smithers 1970: 9) was intended to reinforce its member states' commitment to pluralist democracy, the rule of law, and the protection of human rights and fundamental freedoms. Within this context, the ECHR still remains "the most notable

[1] Czechoslovakia acceded to the CE on 21 February 1991, and then as two separate states – the Czech Republic and Slovakia –, on 30 June 1993.

achievement of the CE" (Political and Economic Planning 1959: 154). It is modelled on the ten civil and political rights that had been initially expressed in the United Nations Declaration of Human Rights, of 10 December 1948 (Beddard 1993).

The importance of the intended European Assembly was two-fold. It would, firstly, provide Europe with an institutionalised setting within which to conclude policies and ensure cooperation amongst the member states. Second, it would act as a regional chamber of representation for European public opinion. A Charter of Rights would then complement this principle of democratic representation. The creation of a regional Court with effective sanctions would then strengthen both the principles of rights protection, and democratic representation, within the envisaged regional Assembly of liberal democratic states (Powell 1950; Kover 1954; Nord 1957; Political and Economic Planning 1959; Walton 1959; Cerexhe 1979; Bitsch 2004).

Indeed, since the end of the second world war, the CE has provided its member states with the necessary institutionalised setting within which to examine policies governing relations between States and, most importantly, between the State and its subjects. Law making within the CE was seen as an important feature in consolidating the principles of democracy and human rights protection. However, in its initial days, this alone was not considered a strong enough case for its continued existence (Smithers 1970). Additionally, this period was characterised by the creation of other regional organisations in Europe.[2] Consequently, in response to this perceived lack of purpose, the CE actively sought to establish itself as a *political authority with limited functions but real powers* (Robertson 1973).

[2] The following regional organisations were created in the immediate aftermath of the second world war:

- 17 March 1948: Brussels Treaty Organisation, which later became the Western European Union on 23 October 1954;
- 16 April 1948: Organisation for European Economic Cooperation, which later became the Organisation for Economic Cooperation and Development on 14 December 1960;
- 4 April 1949: North Atlantic Treaty Organisation;
- 18 April 1951: European Coal and Steel Community (ECSC);
- 25 March 1957: European Economic Community, European Atomic Energy Community.

3. Institutions

3.1. The Committee of Ministers

Under Article 10 of its Statute, the CE is composed of two main institutions, the Committee of Ministers (CM) and the Parliamentary Assembly (Assembly), which are both served by the Secretariat. The CM is composed of the Ministers of Foreign Affairs of its forty-seven member states. Since 1951, each Minister of Foreign Affairs has had a Permanent Representative in Strasbourg, who acts as the Minister's Deputy and as the Permanent Representative of the state. Additionally, the organisation's Observer member states also have non-voting representatives within the CM.

3.1.1. Mandate

By virtue of Article 13, the CM is the only institution mandated to act on the organisation's behalf. Its activities are overseen by a rotating Chairmanship, which changes every six months. It is responsible for the accession and, if necessary, expulsion of member states from the regional organisation. Under Article 4, and in consultation with the Assembly, the CM has the authority to admit new members who are "able and willing to fulfil the provisions of Article 3." Conversely under Article 8, it may request a country, "which has seriously violated Article 3 […] to withdraw under Article 7." Failing this, the CM "may decide that it has ceased to be a member of the Council as from such a date as the Committee may determine."

Article 15 defines the CM's remit in relation to the organisation's aims and objectives, as outlined under Article 1. It is responsible for all other "matters relating to the internal organisation and arrangements of the CE," and for adopting the organisation's budget (Article 16). It is also required to "consider the action required to further the aim of the CE, including the conclusion of conventions or agreements and the adoption by governments of a common policy with regards to particular matters (Article 14(a)). The CM's work is supported by the various steering committees, and *ad hoc* committees of experts, as allowed for under Article 17 (Schülter 2006).

3.1.2. Procedures

When the CM has reached an appropriate decision, its' conclusions are then put to the member states, for action at the domestic level. Under Article 14(b), it may propose non-binding recommendations to governments and may "request the governments of members to inform it of the action taken by them with regard to such recommendations." The manner in which its Conclusions are reached is intended to reflect the organisation's underlying principles of equality and equal representation. Under Article 14, "each member shall be entitled to one representative […], and each representative shall be entitled to one vote."

The voting procedures employed by the CM are outlined under Article 20. Briefly, *Recommendations* adopted by the CM to the member states require a "unanimous vote of the representations casting a vote, and of a majority of the representatives entitled to sit on the Committee." *Resolutions* adopted in relation to the admission of new members, "under Articles 4 and 5 require a two-thirds majority of all the representatives entitled to sit in the Committee." Additionally, matters relating to the *rules of procedure* or *financial and administrative regulations* require "a simple majority of the vote of the representatives entitled to sit on the Committee." Matters relating to the *adoption of a new treaty* and the *publication of the treaty's explanatory report* now require "two-thirds of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee." This requirement of a two-thirds majority was concluded under Statutory Recommendation (93)27 of 14 May 1993, replacing the preceding statutory procedure, under which the rule of unanimity had previously applied.

3.2. The Parliamentary Assembly

The Dutch Advisory Council on Foreign Relations describes the CE's Assembly as the "oldest international pluralist assembly established on the basis of an international treaty" (Vraagstukken 2005: 19). It was initially named the Consultative Assembly, but has since 1974 used the name Parliamentary Assembly. The CM officially recognised the name change in February 1994, but the Statute has not been amended accordingly.[3] Notwithstanding the absence of the necessary statutory amendment, this change in

[3] Committee of Ministers, Conclusions of the 508th meeting of CM Deputies, CM/Del/Concl (94) 508, 14 to 17 February 1994.

name is important in that it illustrates the Assembly's increasing assertiveness in respect to its democratic and human rights mandate. The change in name in 1974 also coincides with launch of the Assembly's, and thus the CE's, most prominent human rights campaign in 1973, which led to the gradual emergence of Europe as the world's first death penalty free region.

3.2.1. Composition

Under Article 25(a), the Assembly is composed of indirectly elected parliamentarians from its forty-seven member states. Indirectly, in that, unlike the EU's European Parliament, Assembly members are not directly elected. Delegations are "elected by its [national] parliament from among members thereof, or appointed from among the members of that [national] parliament, in such a manner as it shall decide […]."

The number of seats allocated to each member state's delegation is outlined under Article 26. Seats and votes are apportioned to each member state by population.[4] The total number of national representatives is 636: 318 national representatives, and their 318 substitutes. The allocated seats, and thus votes, for each full CE member state, are shown in Table 3.1 below.

Under Statutory Resolution 93(26), the status of observer member state was granted to the United States on 10 January 1996, Canada on 29 May 1996, Japan on 20 November 1996. Mexico has been an observer member state since 1 December 1999. Of these, delegations from Canada and Mexico have seats in the Assembly, but do not have voting rights (Rule 60.5 of the Assembly Rules of Procedure). Their representation within the Assembly complements that of Israel, which has enjoyed observer membership of the Assembly since 2 December 1957. Additionally, although the Holy See is not an observer member state within the Assembly, it has enjoyed a special guest status since 7 March 1970. It has a permanent representative to the CE, and other observers who, since 1974, have observed the organisation's various expert committees, such as the Committee of Experts on Human Rights (Schülter 2006).

[4] In view of the different waves of enlargement, the number of seats apportioned to some member states has been amended. The explanatory note, which is footnoted under the original Article 46 of the CE's Statute of 1949 reads: "An *Amendment* effected by the process of Certificate of the Secretary General on 18 December 1951 increased by one the number of seats allocated to Belgium, Denmark, Greece, the Netherlands and Norway and by two the number of seats allocated to Turkey. Another *Amendment* effected by process of Certificate of the Secretary General on 20 January 1978 increased by two the number of seats allocated to Spain and Turkey."

Table 3.1: National Parliamentary delegations to the Parliamentary Assembly

Council of Europe member states	National delegations	Council of Europe member states	National delegations
Albania	4	Lithuania	4
Andorra	2	Luxembourg	3
Armenia	4	Malta	3
Austria	6	Moldova	5
Azerbaijan	6	Monaco	2
Belgium	7	Montenegro	3
Bosnia and Herzegovina	5	Netherlands	7
Bulgaria	6	Norway	5
Croatia	5	Poland	12
Cyprus	3	Portugal	7
Czech Republic	7	Romania	10
Denmark	5	Russia	18
Estonia	3	San Marino	2
Finland	5	Serbia	7
France	18	Slovak Republic	5
Georgia	5	Slovenia	3
Germany	18	Spain	12
Greece	7	Sweden	6
Hungary	7	Switzerland	6
Iceland	3	FYR Macedonia	3
Ireland	4	Turkey	12
Italy	18	Ukraine	12
Latvia	3	United Kingdom and NI	18
Liechtenstein	2		

3.2.2. Mandate

The importance attributed to the CE's democratic rule and European public opinion, is illustrated by the Assembly Representatives' dual mandate. As the CE's chamber of representation, the Assembly members are, – at the time of writing –, first and foremost, members of parliament representing their own constituencies in their individual countries of origin. As national parliamentary delegates to the CE's Assembly, they have an individual, and not a national role (Haller 2006). Their alphabetical seating within the Assembly chamber ensures that the representatives act in an individual capacity, representing European public opinion and steering the CE's member states towards a habit of compliance with the organisation's underlying values (Schülter 2006). In turn, as with the European Union's (EU) European Parliament, the Assembly is organised into transnational party groups, rather than national party delegations. There are five political groups, which represent the political affinities of individual representatives: Alliance of Liberal and Democrats for Europe (ALDE),

European Democrat Group (EDG), Group of the European People's Party (EPP/CD), Socialist Group (SOC), and Group of the United European Left (UEL).

The Assembly holds four annual plenary sessions, and its remit is outlined under Article 22. This states, "the Consultative Assembly is the *deliberative* organ of the CE […]" (emphasis added). It is to "debate matters within its competence under this Statute." It can deliver three types of conclusions, which are voted for and presented in the following manner. A two-thirds majority vote is necessary for the Assembly's *Recommendations*. These act, for the most part, as policy proposals to the CM, for action by governments, at the national level. *Resolutions* require a simple majority vote, and express the Assembly's decisions on questions "which it alone is empowered to put into effect or expressions of views for which it alone is responsible" (Schülter 2006: 37). The Assembly's Resolutions or Recommendations are initiated by a report into a specific issue area, as conducted by the appropriate Assembly Committee. The final type of conclusions, are the Assembly's *Opinions*, which also require a simple majority vote. Opinions express the Assembly's viewpoint on issues put to it by the CM, such as those relating to the accession of a new member state, or the drafting of new legislation (Schülter 2006). However, despite the importance of its role in ensuring the continent's democratic security, and regional human rights protection, the Assembly's powers are limited to those of a deliberative body (Political and Economic Planning 1959; Smithers 1970; de Vel, 1995; Haller 2006).

4. Democracy at the national level

4.1. Stabilising the regional neighbourhood

In keeping with Article 3, the CE is composed of liberal democracies. Political authority in Europe is legitimated within the liberal democratic paradigm. Liberal democracy favours a normatively charged definition of legitimate political authority. Notwithstanding the differing approaches to liberal democratic rule within the different European states, the underlying universal characteristic of a liberal democratic state presupposes democratic authorisation as a source of political authority (Beetham 1999). Liberal democratic states' internal conduct guarantees the protection of human rights and fundamental freedoms and democratic authorisation (Beetham 1999; Schimmelfennig 2003; Lord and Harris 2006).

Externalising these principles results in liberal democratic states' conduct being characterised by "peaceful conflict management and multilateralist collaboration" (Schimmelfennig 2003: 78). Thus, whilst it is not likely that democracies will never go to war, it is not likely that they would go to war with each other. A region composed only of democracies can thus be expected to be more stable. To this end, the CE serves to reinforce its member states' *own* claims to liberal democratic legitimation, and thus *stabilise the regional neighbourhood* (Schimmelfennig et al. 2006).

4.2. Stabilising the transition to democracy

Following the end of the cold war, the CE has contributed to *stabilising the democratic transition of former authoritarian states*, thus locking-in liberal democratic norms and conduct. Pevehouse's (2002b) theoretical and empirical investigation into how nascent democracies lock-in democratic rule clearly illustrates the importance of regional organisations in legitimating national polities and policies. For Pevehouse, the winners in the struggle for democracy use the states' membership of regional organisations in order to outsource legitimacy for the new democratic norms, rules, procedures, and institutions (Pevehouse 2002a; Pevehouse 2002b).

Accordingly, accession to the CE strengthens the tenuous democratic claims of the newly democratic regimes, allowing them to "claim added legitimacy for themselves" (Croft et al 1999: 152). Consequently, in recognising the principles of liberal democracy as underpinning political authority within Europe, the enlargement process has contributed to the legitimation of a certain mode of political organisation within the regional community (Flauss 1994; Schimmelfennig et al 2006). This places emphasis on the rule of law, pluralist democracy, and the protection of human rights and fundamental freedoms, as enshrined under Article 3 of the CE's Statute.

4.3. Promoting democracy within the member states

Whilst serving as the regional framework within which to confer legitimacy upon its liberal democratic member states, the CE has also been active in *promoting democracy within its member states*. The relevant CE institution is the Congress of Local and Regional Authorities of Europe (Congress). Following the adoption of Statutory Resolution (94)3 by the CM on 14 January 1994, the Congress succeeded the

consultative Conference of Local Authorities, which had been created on 12 January 1957. The Congress' mandate is to promote democracy at both the local and regional level.[5] Its structures include a Chamber of Regions and a Chamber of Local Authorities. Under Statutory Resolution (2000)1 the Congress was awarded the status of a CE institution.[6] This has now been replaced by the new Statutory Resolution (2007)6 of 2 May 2007, which was adopted at the CM Deputies' 994th meeting. It aims to increase the participation of local and regional authorities within the CE's institutions.

5. Input legitimacy

5.1. Civil society representation and participation

The European civil society provides an additional source of input legitimation. Its participation is facilitated by the contribution of non-governmental organisations (NGOs) to the CE's decision-making, and policy outcomes. As Smithers (1970: 95) noted, NGO participation within the CE "represents an organised and dynamic section of the public opinion [and a] supplement to the activities of the CE's Information Directorate, and thus make[s] better known the progress achieved on the road to European unity."

Indeed, since 1952, the CE has granted consultative status to NGOs based on their potential to contribute to the organisation's aims and principles (Trommer and Chari 2006). This inclusion was underpinned by Resolution (51)30F of 3 May 1951, in which the CM "may, on behalf of the CE, make suitable arrangements for consultation with international non-governmental Organisations which deal with matters that are within the competence of the CE."[7]

5.2. Legal framework for civil society participation

5.2.1. Convention on the Recognition of the Legal Personality of INGOs

The European Convention on the Recognition of the Legal Personality of International

[5] Committee of Ministers, Statutory Resolution (94)3 adopted at the 506th meeting of CM Deputies, 14 January 1994.

[6] Committee of Ministers, Statutory Resolution (2000)1 adopted at the 702nd meeting of CM Deputies, 15 March 2000.

[7] Committee of Ministers, Resolution (51)30F, "Relations with International Organisations, both Intergovernmental and Non-governmental," 3 May 1951, paragraph 4.

Non-governmental Organisations outlines the status of NGOs as legal entities.[8] This Convention remains the only legally binding agreement, which recognises the legal personality of NGOs within international law. Article 1 outlines the conditions that should be fulfilled for an NGO to be recognised as such. It must

> a. have a non-profit-making aim of international utility;
> b. have been established by an instrument governed by the internal law of a [High Contracting] Party;
> c. carry on their activities with effect in at least two States; and
> d. have their statutory office in the territory of a Party and the central management and control in the territory of that Party or of another Party.

The CE's pan-European approach is reflected in the provisions outlined under Article 2, where "the legal personality and capacity, as acquired by an NGO in the Party in which it has its statutory office, shall be recognised as of right in other Parties" (Article 2(1)). Under Article 2(2), restrictions imposed on NGOs in a signatory state shall be applied to similar NGOs established in other signatory states: "when they are required by essential public interest, restrictions, limitations or special procedures governing the exercise of the rights arising out of the legal capacity and provided for by the legislation of the Party where recognition takes place, shall be applicable to NGOs established in another Party."[9]

5.2.2. Fundamental Principles on the Status of NGOs in Europe

The Fundamental Principles on the Status of Non-governmental organisations in Europe were adopted on 13 November 2002. As with the Guidelines to promote the development and strengthening of NGOs in Europe,[10] these Fundamental Principles reiterate the provisions outlined under the Convention on the legal personality of NGOs. Four "Basic Principles" are outlined under paragraphs 20 to 24:

[8] European Convention on the Recognition of the Legal Personality of International Non-governmental Organisations of 24 April 1986, which entered into force on 1 January 1991.

[9] Committee of Ministers, Recommendation CM/Rec(2007)14 to member states on the Legal Status of Non-Governmental Organisations in Europe, 10 October 2007, Explanatory Memorandum.

[10] The Legal Status of Non-governmental Organisations and their role in a Pluralist Democracy, Guidelines to promote the development and strengthening of NGOs in Europe, Multilateral meeting organised by the Council of Europe in cooperation with the Japan Foundation, Strasbourg, 23 to 25 March 1998.

a. Voluntary establishment based on the right of any natural or legal person to establish an NGO with a lawful, non-profit-making objective;
b. Right to freedom of association, as outlined under Article 10 of the [ECHR];
c. NGOs with a legal personality should have the same general rights and obligations as other legal entities, under domestic law;
d. Judicial protection, whereby NGOs should be entitled, […] to challenge decisions affecting them in an independent court […].

The Fundamental Principles are intended to reinforce the organisation's commitment to the participation of non-state actors within its decision-making structures. As paragraph 9 of the Fundamental Principles' Explanatory Memorandum states, "as far as the CE is concerned, this contribution is made through a variety of means, such as education, training, dissemination of CE standards, participation in expert committees, and especially through the consultative status that some 370 NGOs have acquired with the Organisation."[11]

5.2.3. Recommendation on the Legal Status of NGOs in Europe

On 10 October 2007, the CM Deputies adopted Recommendation CM/Rec(2007)14 on the Legal Status of NGOs in Europe.[12] Within the CE, this Recommendation aims to "enhance the participation of NGOs in the CE's activities."[13] Nationally, it attempts to define the "minimum standards to be respected concerning the creation, management and the general activities of NGOs in the member states of the organisation."[14] In so doing, the Recommendation draws together the provisions outlined under the Convention and the Fundamental Principles. It outlines both the legal, financial and accountability requirements necessary to ensure effective NGO participation both nationally, and within the CE. It reinforces the recognition made by the Heads of State and Government at their Third Summit in Warsaw on 17 May 2005, that "the NGO [is] an essential element of civil society's contribution to the transparency and accountability of democratic government."

[11] The figure of 370 INGOs on 13 November 2002.
[12] Committee of Ministers, Recommendation CM/Rec(200714 to member states on the legal status of non-governmental organisations in Europe, 10 October 2007.
[13] Conference of INGOs, http://www.coe.int/t/ngo/Legal_standards_en.asp.
[14] Ibid.

5.3. Institutional framework for civil society participation

5.3.1. Conference of International Non-governmental Organisations

The Conference of International Non-governmental Organisations (Conference) is an institution within the CE. Its underlying aim is "to affirm the political role of civil society at the [CE]."[15] It provides an institutionalised framework for the organisation's cooperation with international NGOs (INGOs), and allows for the representatives of the European civil society to effect the following. First, INGOs can contribute to the CE's decision-making processes. Second, INGOs can participate in the implementation of the organisation's policies. Third, INGOs provide a medium through which to disseminate the CE's work to the European public. Fourth, INGOs can assess the relevance of the CE's policies in respect of European public opinion.

In order to "increase active [INGO] participation on the policies and work programme of the [CE]," the status conferred to INGOs has, since 19 November 2003, evolved from consultative to participatory.[16] Participatory status is granted to an INGO whose mandate contributes to the organisation's aim to ensure closer unity among its member states in respect of Article 1 of its Statute. In addition, an INGO's proven capacity to influence policy at the European level is also taken into consideration. Accordingly, INGO participation within the CE ranges from simple consultation to more in-depth cooperation on specific policy areas. As consultants to the CE, INGO experts may contribute to the organisation's intergovernmental committees on either a regular institutionalised, or *ad hoc* basis. INGOs may also make oral or written statements to the committees of the Assembly or the Congress. They may address seminars or meetings within the CE, and can prepare memoranda for the Secretary General.[17]

The Conference's mandate is thus summarised: representing INGOs that enjoy a participatory status; identification of policy areas upon which to participate with other institutions; adoption of action programmes; and, to ensure that there is no hindrance to effective INGO participation within the organisation. To date, more than 400

[15] Ibid.

[16] Committee of Ministers, Resolution Res(2003)8 on the Participatory status for international non-governmental organisations with the Council of Europe, 19 November 2003.

[17] Conference of INGO's, http://www.coe.int/t/ngo/particip_status_intro_en.asp; Committee of Ministers, Resolution Res(2003)8 on the Participatory status for international non-governmental organisations with the Council of Europe, 19 November 2003.

INGOs enjoy a participatory status within the CE.[18]

5.3.2. Standing Committee of the Conference of INGOs

Thematic committees and transversal groups conduct the INGOs work. The Conference elects its Standing Committee for a three-year term. The Standing Committee ensures that the thematic committees and transversal groups' activities comply with the Conference's overall aims and objectives. It also provides an informational role between the Conference's committees and transversal groups, and those of other CE institutions.

The *Civil Society and Democratic Committee* is comprised of 140 NGOs, and its mandate is to examine the importance of civil society participation to the democratic process. At the time of writing, the Committee examines the following key areas: the Code of Good Practice for civil society participation in the decision making process, the European Local Democracy Week; the Expert Council on NGO Law; the Forum for the Future of Democracy; and, support for civil society in Belarus.

The *Culture, Science and Education Committee* is comprised of 150 NGOs. It examines the importance of education to both democratic participation and democratic representation in Europe. At the time of writing, this Committee's mandate includes, among others, "science, society and ethics," "education for democratic citizenship and human rights," "access for all to digital media," "higher education in Europe," and "the religious dimension of intercultural dialogue."

The *Human Rights Committee* is comprised of 160 NGOs, and examines issues associated with the CE's human rights mandate. At the time of writing, topics on this Committee's agenda include, among others, "the European Social Charter," children and human rights," "the protection of human rights defenders," and "religion and human rights." The *Social Cohesion and Eradication of Poverty Committee* is comprised of 130 NGOs. Policy areas currently on its agenda include "health determinants," and "poverty." The *Sustainable Territorial Development Committee* is responsible for policies relating to the environment. It is comprised of 80 NGOs and its present remit includes, "environment and health," "water and health," "pollution," "the European Local Democracy Week," and "the Urban Charter."

[18] Conference of INGO's, http://www.coe.int/t/ngo/particip_status_intro_en.asp.

The two transversal groups are *Gender Equality*, which has 80 NGOs, and *Europe and Global Challenges*, which has 100 NGOs. Their present mandate includes "prevention and combating violence against women," for the Gender Equality Transversal Group, and "migrants and human rights," for the Europe and Global Challenges Transversal Group.

5.3.3. Civil Society Initiatives

Initiatives undertaken by the CE in collaboration with its member states' societies compliment the preceding institutionalised framework within which NGOs can participate. Two such initiatives are currently underway within the organisation. In order to exert a democratic influence on the only European country, which is not a member state, the CE has since 2006, hosted the *Civil Society Communication Platform on Belarus*. Through this programme, the CE has pledged to support Belarusian civil society by providing "assistance to human rights defenders and independent media in Belarus." Such continued efforts to include Belarus in the European regional community of democratic states has seen representatives from Belarus' civil society participate in the Conference, and they are also invited to attend relevant Assembly meetings.[19]

The CE's pledge to strengthen civil society participation within the organisation, from its existing member states is exemplified by its cooperation with representatives from Russia's civil society. The three-year Framework Cooperation Programme on *Strengthening Civil Society and Civil Participation in the Russian Federation* was launched in mid-2008. For this, the Conference works with the Moscow-based Council of the President of the Russian Federation on Assistance to the Development of Civil Society Institutions and Human Rights. It acts as an intermediary between Russian civil society and public authorities. It provides a framework for dialogue, aimed at "improving interaction between NGOs and public authorities in order to strengthen the role of civil society in public life and policy-making [and] improve the participation of Russian civil society representatives in European processes."[20]

[19] Conference of INGOs, http://www.coe.int/t/ngo/civ_soc_initiatives_en.asp.

[20] Outline of the three Year Framework Cooperation Programme (2008-2011) "Strengthening Civil Society and Civic Participation in the Russian Federation," 22 April 2008, http://www.coe.int/t/ngo/Source/Russia_3_year_programme_en.pdf, p. 2.

- Strengthening civil society, also in its dialogue and cooperation with public authorities;

The recently completed *Civil Society Leadership Network* complements the above programmes. Jointly coordinated by the CE and the EU, this programme brought together civil society leaders from Armenia, Azerbaijan, Georgia, Moldova and Ukraine. The underlying aim of engaging civil society leaders from the Ukraine, Moldova and the Southern Caucuses within the regional civil society networks such as the Conference was intended to facilitate the civil society organisations' own initiatives aimed "to promote domestically [CE] standards and use them in their contacts with the authorities."[21]

6. Democracy and rights in Europe

6.1. The Council of Europe's human rights mandate

The CE's remit in regard to protecting rights in Europe is important for the following two reasons. The first relates to the importance of applying the organisation's normative principle of liberal democracy when admitting new and retaining established members. That is, the CE's Statute enshrines in law the organisation's fundamental role in defining and delivering rights to its member states' societies. The legal provisions of this role are set out in the membership criteria as outlined under Article 3.

The second relates to the process by which decisions are reached, and by which international agreements are concluded. Although the CE's authority is limited to that of a deliberative body, its role as a deliberative organisation is important for the following two reasons. On the one hand, it provides various fora for examining policy proposals. On the other hand, and drawing on the preceding paragraph, it has the necessary legal remit for translating normative principles into international legal standards regulating the state's conduct towards the individuals who find themselves within the domestic jurisdictions of the CE's member states. Indeed, this reinforces the human rights principle for NGO-civil society participation outlined in both the Fundamental Principles on the Status of NGOs in Europe, and the CM's

- Encourage partnerships between NGOs in the Russian Federation;
- Enabling participation of NGOs from the Russian Federation in European networks and activities through the Council of Europe Conference of INGOs
- NGO legislation and its implementation, application of Recommendation (2007)14 on the legal status of NGOs

[21] Civil Society Leadership Network, http://www.cslnetwork.org/?laid=1&com=module&module=menu&id=32.

Recommendation on the Legal Status of NGO's in Europe. As seen, Article 11 of the ECHR protects the individual's right to freedom of association, which includes the right to establish and participate within an NGO.

6.2. Institutions and human rights protection

6.2.1. The Committee of Ministers and the Parliamentary Assembly

The CE's Statute does not provide for the necessary institutions through which to carry out its human rights remit. In order to fully understand how the CE protects human rights in Europe, it is important to examine how the different institutions have defined, and developed their own human rights mandates, in relation to their wider remits and political authority, as these are defined under the Statute.

The CM's main human rights mandate is to supervise the Court's rulings, and to monitor member states' compliance with "the final judgment of the Court in any case to which they are parties" (Article 46(a)). Given that the CE's Statute has not been amended to accommodate this provision, the CM's supervisory role in respect of the ECHR and the Court's rulings is defined under Article 46 of the ECHR. In this capacity, it holds quarterly sessions during which it examines the execution of "the final judgment of the Court" (Article 46(b)). When each case has been concluded, it adopts a final and public resolution. Alternatively, an interim resolution is adopted in cases where further information is required "on the state of progress of the execution or, where appropriate to express concern and/or to make suggestions with respect to the execution" (Rule 16, Interim Resolutions).

The CM's human rights remit also includes proposing non-binding recommendations on human rights protection to its member states, and facilitating their adoption of non-binding recommendations. It is also responsible for appointing members to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Social Charter Committee, as well as, in the past, to the now former European Commission for Human Rights. Furthermore, it serves as the monitoring body for the Framework Convention for the Protection of National Minorities.

The Assembly's Committee on Legal Affairs and Human Rights is responsible for its human rights mandate. The Committee is composed of eighty-four parliamentarians

and their substitutes. It has four sub-Committees, each responsible for a particular policy area of the Assembly's core human rights remit. These policy areas are human rights, crime related problems and terrorism, minority rights, and the election of judges to the Strasbourg Court. Each committee has a system of rapporteurs and fact-finding missions, and its conclusions are then presented in a final report. The conclusions from these reports often form the basis of the Assembly's proceedings – recommendations, resolutions and opinions – to the CM, other CE institutions, or member states.

6.2.2. The European Commissioner for Human Rights

The European Commissioner for Human Rights (Commissioner) is the ECHR's diplomatic, and non-judicial institution, and does not take up individual complaints. It was created under Statutory Resolution 99(50) of 7 May 1999.[22] Unlike the Court and the former Commission, which are also ECHR mechanisms, the Commissioner is an independent institution *within* the CE. According to Article 9 of Statutory Resolution 99(50), the Commissioner is elected by the Assembly, "by a majority of votes cast from a list of three candidates drawn up by the [CM]."

This is a personalised institution, with only one Commissioner.[23] It is not a collective body, meaning that the Commissioner's role is, in part, to interpret the abstract provisions of Statutory Resolution 99(50), upon which the institution's mandate is based.[24] The Commissioner main remit is to encourage member states to observe, and protect human rights. As an interviewee from the CM made clear, "[the Commissioner] has the great advantage that the text [Statutory Resolution (99)50] foresees that he can make *ad hoc* or impromptu visits to check in member states whether human rights are being respected."[25] Thus, its mandate is fulfilled through various informational and educational awareness campaigns and by promoting the development of national human rights institutions.[26]

[22] Committee of Ministers, Statutory Resolution (99)50 on the Council of Europe Commissioner for Human Rights, 7 May 1999

[23] Interviewee No.1, Office of the Commissioner, 24 June 2009.

[24] The present Council of Europe European Commissioner for Human Rights is Mr Thomas Hammarberg, who was elected by the Assembly on 5 October 2005.

[25] Interviewee No.2, Committee of Ministers, 9 February 2010.

[26] Resolution (99)50 on the creation of the European Commissioner for Human Rights, 7 May 1999, Article 3.

6.2.3. The Directorate General for Human Rights and Legal Affairs

The Directorate General for Human Rights and Legal Affairs forms part of the CE's Secretariat. It is responsible "for the development and implementation of the human rights and rule of law standards of the CE, including the promotion of democracy through law, the operation of relevant treaties and related monitoring mechanisms."[27] The following Directorates perform the Directorate General's wide-ranging remit. The *Directorate for Cooperation* focuses on "targeted cooperation projects in beneficiary countries [in areas such as] economic crime, legal and human rights capacity building, judicial reforms, and judicial efficiency."[28]

The *Directorate for Monitoring* oversees the CE's overall monitoring role, and comprises the secretariats of the organisation's independent monitoring bodies. Its Department for the Execution of the Judgments of the Court assists the Committee of Ministers supervisory role with respect to the ECHR.[29] Finally, the *Directorate for Standard Setting* prepares the CE's treaties, conventions and other international agreements, such as those abolishing the use of the death penalty in Europe. It also convenes the organisation's Ministerial Conferences. Additionally, in conjunction with the CE's Directorate for External Relations, it is responsible for cooperation with other international organisations, such as the EU and the UN.[30] Together, these Directorates provide assistance to both the Secretary General and the CM on matters relating to human rights and the rule of law.

6.2.4. The European Commission for Democracy through Law

The European Commission for Democracy through Law complements the CE's legal work. As a result of its geographical location, it is more commonly known as the Venice Law Commission. It was created by Resolution (90)6 on the Partial Agreement Establishing the European Commission for Democracy through Law, which was adopted by the CM on 10 May 1990. As a Partial Agreement, membership of the Venice Law Commission was initially limited to the newly democratic Central and

[27] DGHLA, "Overall Mandate", http://www.coe.int/t/dghl/mandat_en.asp.
[28] Directorate for Cooperation, http://www.coe.int/t/dghl/overview_cooperation_en.asp.
[29] Directorate for Monitoring, http://www.coe.int/t/dghl/overview_monitoring_en.asp.
[30] Directorate for Standard Setting, http://www.coe.int/t/dghl/overview_standardsetting_en.asp.

Eastern European member states. As an independent consultative body specialising in constitutional law, its initial remit was to align the constitutions of its newly democratic member states with the organisation's underlying principles of pluralist democracy, the rule of law, and the protection of human rights and fundamental freedoms.

Its remit is clearly outlined under Article 1(1), which states, the Venice Law Commission "shall be a consultative body which co-operates with the member States of the CE and with non-member States, in particular those of Central and Eastern Europe. Its own specific field of action shall be the guarantees offered by law in the service of democracy." However, following the inclusion of the former Communist states into the CE, the EU and NATO, the Venice Law Commission is now an Enlarged Partial Agreement. This is allowed for under Resolution (2002)3 on the Revised Statute of the European Commission for Democracy through Law, adopted on 21 February 2002 at the CM Deputies 784th Meeting. As an Enlarged Partial Agreement, the Venice Law Commission the membership extends to both willing CE and non-CE member states, which, at the time of writing, is fifty-seven.

6.2.5. The European Court of Human Rights

The European Court of Human Rights (Court) is an institution of the ECHR. Articles 19 to 51 of the ECHR define the Court's mandate, composition, jurisdiction and powers. This discussion will now examine the main procedural provisions. Under Article 21(2), the Court's judges are independent, and sit "in their individual capacity." In keeping with the provisions of Article 21(3), the forty-seven judges from the CE's member states should not engage in any activities deemed "incompatible with their independence [and] impartiality." The independence of the Court's registry from the CE is assured under Article 25, allowing it to decide its own functions. Article 32(1) provides for the Court's independent jurisdiction, which allows it the necessary latitude to interpret and apply the Convention, in a manner it deems necessary. Under Article 34, the Court can accept petitions from individuals, or from third parties representing the victim, while Article 33 provides for interstate petitions by the CE's forty-seven member states. The finality of the Court's judgments is assured under Article 42. This Article should be read in conjunction with Articles 44 on the binding nature of the Court's judgments, and Article 46 on the CM's role in supervising the

execution of the Court's judgments by the member states.

The following provisions from the ECHR facilitate the continued mutual interdependence between the CE, and the Court. Article 47(1) establishes the CM's right to request an advisory opinion from the Court "on legal questions concerning the interpretation of the ECHR and the protocols thereto," but provided that these "shall not deal with any questions relating to the scope of the rights or freedoms defined in Section I of the ECHR and the protocols thereto" (Article 47(2)). The financial arrangements between the Court and the CE are detailed under Article 50, which states, "the expenditure on the Court shall be borne by the [CE]." Finally, enquiries by the CE's Secretary-General to member states are permitted under Article 52, in which the Secretariat can request, "any High Contracting Party [to] furnish an explanation of the manner in which its internal law shall ensure the effective implementation of any other provisions of the [ECHR]."

6.3. Human rights pillars

6.3.1. The European Convention on Human Rights

The ECHR is the CE's main pillar for protecting rights in Europe. Accession to the ECHR and its amending Protocols became an unofficial requirement as of 1989. This membership condition was then clearly outlined in the Assembly's Opinion No.182 (1994) of 4 October 1994, concerning the Principality of Andorra's membership of the CE. Since then, the following membership criteria have applied to all accession states. Full membership status would be granted on the condition that the ECHR was signed immediately upon accession, and that it is ratified within twelve months of the signature date.

The ECHR consists of 59 articles. Section I on "Rights and Freedoms" outlines the protected rights and fundamental freedoms. Two categories of rights are enshrined under the ECHR, which are *absolute* and *qualified* rights. *Absolute* rights are protected under Articles 2 to 7, and they are absolute insofar as any infringement of these rights by a CE member state must be fully justified. The absolute rights enshrined under the ECHR are as follows: "Right to life" (Article 2); "Prohibition of torture" (Article 3); "Prohibition of slavery and forced labour" (Article 4); "Right to liberty and security" (Article 5); "Right to a fair trial" (Article 6); and, "No punishment without law" (Article

7).

In turn, the ECHR's *qualified* rights are protected under Articles 8 to 11. Here, in the interest of national security, state authorities may impose limitations on the enjoyment of qualified rights. The qualified rights enshrined under the ECHR are as follows: "Right to respect for private and family life" (Article 8); "Freedom of thought, conscience and religion" (Article 9); "Freedom of expression" (Article 10); and, "Freedom of assembly and association" (Article 11).

The initial ECHR rights, which entered into force on 3 September 1953, have since been supplemented with a further set of rights and freedoms, which are outlined in the following additional Protocols to the ECHR: Protocols No. 1, 4, 6, 7, 12 and 13.

6.3.2. The Revised European Social Charter

In November-December 1990, the CM mandated the *ad hoc* Committee on the European Social Charter to provide a set of proposals aimed at improving the effectiveness of the 1961 European Social Charter, and its supervisory organ, the European Social Charter Committee. Following consultations with the Assembly and the European Trade Union Confederation, the Union of Industrial and Employers Confederations of Europe, and the International Labour Organisation, the Revised European Social Charter was concluded on 3 May 1996, and entered into force on 1 July 1999. It is not to be confused with the Social Chapter of the EU's Maastricht Treaty (1992) on social policy and workers rights. The Revised Social Charter draws together the provisions of the 1961 European Social Charter, its Additional Protocols, and amendments to these rights.[31] It also incorporates new rights, which were proposed by the *ad hoc* Committee. It thus, updates the original 1961 Charter, which it is intended to eventually replace.[32]. The social and economic rights protected complement the civil and political rights enshrined under the ECHR.

The Charter's European Committee for Social Rights monitors member states' conformity with the enshrined rights. It has two monitoring procedures. First, annual

[31] The following agreements outline the amendments to the European Social Charter (1961):
- Additional Protocol to the European Social Charter of 5 May 1988, which entered into force on 4 September 1992
- Protocol amending the European Social Charter of 21 December 1991
- Additional Protocol to the European Social Charter Providing for a System of Collective Complaints of 9 November 1995, which entered into force on 1 July 1998

[32] Revised European Social Charter, 3 May 1996, Explanatory report.

reports are submitted by signatory states, and are based on the four key themes of the Charter: "employment, training and equal opportunities"; "health, social security and social protection"; "labour rights"; and "children, families and migrants." Second, in recognition of the importance of civil society participation in monitoring the protection of workers rights, the second monitoring procedure is based on a system of collective complaints. Under the second Additional Protocol to the 1961 European Social Charter,[33] certain INGOs with participatory status within the Council of Europe are entitled to lodge complaints with the Committee for Social Rights. In addition to this, representatives from NGOs, which are competent in the matter of the Charter, are also entitled to lodge a complaint with the Committee for Social Rights.

6.3.3. The European Convention for the Prevention of Torture

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987, which entered into force 1 February 1989. It complements similar provisions outlined under Article 3 of the ECHR, which prohibits the use of torture. The most important feature of this Convention is that it provides for a "non-judicial machinery of a preventative character."[34] The European Committee of the Prevention of Torture's task is preventative, and acts as an early warning system based on information gathered during its fact-finding visits.

Briefly, the importance attributed to the participation of non-state actors can be seen from the manner in which this Convention was drafted. Following the Parliamentary Assembly Recommendation 971(1983) of 28 September 1983 on the protection of "detainees from torture and cruel, inhuman or degrading treatment or punishment,"[35] consultations on the draft Convention included experts from the CE, the International Commission of Jurists, the Red Cross, and the Swiss Committee against Torture.

6.3.4. The Framework Convention on National Minorities

The Framework Convention on the Protection of National Minorities is the first

[33] The second Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, 9 November 1995.
[34] European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 26 November 1987, Explanatory Report.
[35] Ibid.

international legally binding agreement, which aims to protect national minorities. Whilst no definition of a *national minority* is offered, the Framework Convention outlines the legal principles, which signatory states must undertake in order to ensure for the protection of national minorities. The application of the provisions outlined within national legislation and government policies, is left to the Contracting Parties, thus enabling "them to take particular circumstances into account."[36]

Section I of the Framework Convention outlines the fundamental principles in respect to the protection of national minorities. Section II then outlines the substantive provisions, and expands on certain substantive provisions outlined under the ECHR, such as the "right to religious freedom" (Article 7). Most importantly, Section IV details the monitoring procedures for the framework Convention. Under Articles 24 to 26, the CM monitors signatory states' implementation of the above provisions. On a periodical basis, or as and when requested, the Secretary-General transmits to the CM reports on national implementation and legislation relating to the Framework Convention. Monitoring the implementation of the Framework Convention is intended to be as transparent as possible, with the publication of "the reports and other texts resulting from such monitoring."[37]

7. Supranationalism and output legitimacy

7.1. Democracy in the Council of Europe

7.1.1. Democratic representation and democratic control

The Assembly assures for democratic representation within the CE. Nonetheless, democratic representation and control of the organisation remains limited. The initial opposition to the CE and its authority was demonstrated by the member states' disdain for the Assembly. The organisation was dismissed as a "debating society for European parliamentarians, with an intergovernmental organisation incongruently attached to it" (Political and Economic Planning 1959: 131). The opposing member states' hostility was associated with its role as a supplementary, and extra-national institution specifically created to express, represent and formulate European public opinion (Boothby 1952; Haller 2006).

[36] Framework Convention on the Protection of National Minorities of 1 February 1995, Explanatory Report.
[37] Ibid.

As Haller (2006) suggests, the Assembly placed great importance on its role as a model of political organisation based on the principles of democratic accountability, transparency, and democratic representation. However, the importance of the CE's political authority was limited by a fear within the member states that the Assembly would become the mouthpiece of a concerted European public opinion (Political and Economic Planning 1959: 143). The following quotation from an address made at the Royal Institute of International Relations on 19 February 1952 illustrates national governments' fear of the Assembly. It is from an address by Mr Robert Boothby, a British parliamentary delegate for the Conservative Party to the CE's Assembly from 1949 to 1958:

> "[…] we must reconcile ourselves to the fact that not only the British Foreign Office but even, in some degree the Quay d'Orsay, and all the rest, are naturally hostile to this alien organisation which has sprung up at Strasbourg and has started talking about things that pertain to them, and are better not discussed in public anyway – that matter too much to the peoples of the world to be discussed in front of the peoples of the world" (Boothby 1952: 333).

To this, Kover (1954), has argued that this fear was unfounded. The insufficient media coverage of the CE's activities had contributed to the organisation's failure to galvanise the necessary public support. Nonetheless, despite the member states' unwarranted fears, the CM served as the necessary intergovernmental and anti-federalist check to the otherwise integrationist Assembly (Political and Economic Planning 1959). This tendency towards intergovernmentalism limited the CE's decision-making powers to what the majority of the founding member states had initially intended. The CE's political powers were those of an organisation that aimed at "democratic consolidation" *within*, and not "democratic control" *of*, its member states (Boothby 1952: 331; emphasis added). By restricting the Assembly's powers to those of a deliberative institution, member states hoped to forestall its development into a legislative body, with political authority akin to that of the present directly elected European Parliament.

7.1.2. Appraising the Assembly's democratic influence in the Council of Europe

The Assembly's influence will be examined in respect to the policy formation and monitoring. Examples of its influence will be drawn from a key CE policy, which is the

abolition of the death penalty in Europe.[38] In respect to policy formation, the Assembly has been described as "the organisation's think-tank" (Interviewee No.3, Parliamentary Assembly Secretariat, 11 June 2010). As seen, on 4 October 1994, accession to the ECHR and its additional Protocols became a compulsory membership criterion. Full membership is granted on the condition that the ECHR is signed immediately upon accession, and that it is ratified within twelve months of the signature date. This obligation to accede, and the accession procedure, was not an intergovernmental, but an Assembly initiative. The decision of who could accede would not only be justified in respect to Article 4 of the CE's Statute, but with reference to the Assembly's *own internal practices* that had received no explicit authorisation by the member states. This procedure was outlined in Opinion No.182(1994) in which the Assembly attached,

> great importance to the commitment expressed by the Andorran authorities to sign at the moment of accession and ratify, normally within a year, the European Convention on Human Rights, as well as the protocols thereto, and also to recognise…the compulsory jurisdiction of the European Court of Human Rights (Assembly, Opinion No.182 on the application by the Principality of Andorra for membership of the Council of Europe, 4 October 1994).

The Assembly's democratic influence further strengthened the membership criteria for both CE, and EU member states. The implications of this Assembly initiative would also mean that the Assembly was required to elaborate the procedures to both implement and monitor member states' compliance, without any explicit authorisation from the member states.

To illustrate, the accession criterion on the abolition of the death penalty, the Assembly has, in the past, refused to ratify the credentials of Assembly members whose states still made use of this form of punishment. This policy was justified with reference to the Assembly's *own* Rules of Procedure. For example, when Ukraine refused to introduce a moratorium on all executions, the Assembly decided to "consider annulling the credentials of the Ukrainian parliamentary delegation under Rule 6(9)" (Assembly, Amendment No.5 Honouring of the commitments by Ukraine to introduce a moratorium on executions and abolish the death penalty, Document Nos. 7974 and AS/JUR (1997)47, 23 December 1997).

[38] This draws on a larger study on how the CE role in abolishing the death penalty has contributed to the organisation's political legitimation (Sithole 2010).

More interesting, however, is the Strasbourg Court's use of this Assembly policy in its own legal reasoning. In its final judgment in the cases of *Dankevic v. Ukraine, Kuznetsov v. Ukraine, Poltoratskiy v. Ukraine and Khokhlich v. Ukraine* of 29 April 2003, the Court referred to the Assembly's Resolution 1179(1999) and Recommendation 1395(1999) to the CM on the honouring of obligations by Ukraine. The Court reiterated that the Assembly had

> stressed the importance of the *de facto* moratorium on executions and firmly declared that, if further executions took place, the credentials of the Ukrainian parliamentary delegation would be annulled at the following part-session of the Assembly, *in accordance with Rule 6 of its Rules of Procedure* (European Court of Human Rights, *Poltoratskiy v. Ukraine*, 29 April 2003, paragraph 108).

The above quotation is important in that the Court's case law has served to reaffirm the Assembly's own internal practices and Rules of Procedure as *valid and legitimate sources of authority*. They are valid and legitimate in respect to the membership criterion to which CE member states are subject, and with reference to the above illustration, in respect of member states' obligations on the abolition of the death penalty in Europe.

Nonetheless, despite the importance of the Assembly's new membership criteria, and its role in ensuring for member state compliance, the CE still remains an archetypal intergovernmental organisation with little democratic control. The CM has, over the years, been reticent in providing the Assembly with more authority. More recently, in its attempt at improving the "parliamentary scrutiny of international institutions," the Assembly has sought greater cooperation between the two main CE institutions. Here, it recommended that the CM provide it with "greater involvement in the budgetary process," "the official participation of the President of the Assembly in the [CM] meetings," and "co-decision in the adoption of treaties."[39] With the exception of the Assembly President's official participation, which the CM granted, requests for greater cooperation and co-decision were rejected on the grounds that "priority should go to giving more impetus to the already made efforts."[40]

[39] Parliamentary Assembly, Recommendation 1567 (2002) on the Parliamentary scrutiny of international institutions, 25 June 2002; see also Parliamentary Assembly, Resolution 1289 (2002) on the Parliamentary scrutiny of international institutions, 25 June 2002.

[40] Reply of the Committee of Ministers to Parliamentary Assembly Recommendation 1567(2002), "Parliamentary scrutiny of international institutions," 22 January 2003.

7.1.3. Democracy through rights and the European Court of Human Rights

As the Fundamental Principles highlight, democratic participation in the CE gives "effect to freedom of association, guaranteed by the [ECHR] and safeguarded by international and constitutional law."[41] This was also recognised by the Strasbourg Court's ruling in the case of *Gorzelik and Others v. Poland*: "the right to freedom of association laid down in Article 11 incorporates the right to form an association. The ability to establish a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of freedom of association, without which that right would be deprived of any meaning."[42] This provides a useful starting point from which to examine the supranationality of the Strasbourg Court, and its contribution to the CE's democratisation.

The supranationality of the Strasbourg Court is evidenced by its importance as the most effective institution within the CE framework. It contributes towards ensuring that member states uphold Convention rights, and sanctions them when they do not. Additionally, although Article 47(1) allows for the CM to request an advisory opinion from the Court as to the interpretation of the Convention, Article 47(2) does not allow for it to request advisory opinions in respect to Convention rights. This caveat is important in that it restricts member states' national sovereignty from encroaching on rights protection.

However, the Court does not enforce its own decisions. Under Article 46 of the ECHR, the CM is responsible for monitoring member state compliance. Additionally, the use of its case law by national courts is not compulsory. As Greer (2008: 280) highlights,

> it is of course open to states to incorporate not only the Convention in national law, but the entire case law of the Strasbourg institutions as binding authority as well. However, most seem to regard the Strasbourg case law as of only 'persuasive' authority, probably in order to avoid limiting the scope of national courts to interpret the Convention to meet national requirements.

[41] Fundamental Principles on the Status of Non-governmental organisations in Europe, 13 November 2002, Explanatory Memorandum, paragraph 11. Additionally, the right to form an association is also recognised in the following Council of Europe treaties: Revised European Social Charter (Article 5); Framework Convention for the Protection of National Minorities (Articles 3, 7 and 8); and, Convention on the Participation of Foreigners at the Local Level (Article 3).

[42] *Gorzelik and Others v. Poland* [GC] no. 44158/98, 17 February 2004, paragraph 88; see also, *Sidiropoulos and Others v. Greece,* 10 July 1998, *Reports of Judgments and Decisions* 1998-IV, p. 1614, § 40.

Nonetheless, the Court's contribution to facilitating democratic participation and democratic control within the CE framework is two-fold. Under Article 22, the Assembly elects the Court's judges. In turn, although most cases are put forward by individual applicants, Article 34 allows for cases to be put forward by NGOs.[43] In this sense, being a *victim* does not mean having been directly harmed by the violation of a Convention right. However, Article 35(3)(b) of the Convention as amended by Protocol 14, now prohibits the admissibility of applications if "the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal." Whilst this is intended to reduce the Court's workload by restricting speculative applications, it also inhibits applications being made by third parties such as NGOs, "which might be indicative of systematic compliance problems in member states than those brought by aggrieved victims or their next of kin acting on their initiative" (Greer 2008: 146).

7.2. Institutional permeability and democratic participation

7.2.1. Range of actors

The concept of institutional permeability can be used to describe the extent to which multilateral organisations are accessible to non-state actors (Hawkins 2008). That is, "the extent to which formal and informal rules and practices allow third party access to [international organisation] decision-making processes" (Hawkins 2008: 381). The level of institutional permeability is examined in relation to the range of non-state actors to whom access is granted, the level of decision-making at which access is granted, and the transparency of the information provided by the organisation to non-state actors (Hawkins 2008).

The CE has a high level of organisational permeability in respect to the non-actors to whom access is granted. As seen, the CE has, since 1952, granted consultative status to INGOs based on their potential to contribute to the organisation's aims and

[43] Article 34 of the ECHR as amended by additional Protocol 14 reads, "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

democratic principles. Indeed, in order to increase INGO participation within the CE, the status offered has since 2003 evolved from consultative to participatory. Trommer and Chari's (2006) article on *Interest Groups and Ideological Missions* noted a 30% increase between 1996 and 2006 in the number of INGOs participating in the CE's activities. The legal and institutional provisions for INGO participation within the organisation allow for this high level of institutional permeability. The preceding legal framework for civil society participation has already outlined the range of non-state actors, which are eligible for participatory status within the Conference of INGOs. As seen, the necessary attributes of eligible non-state actors are outlined under Article 1 of the Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations.

Nonetheless, despite the increase in INGOs and, the necessary legal and institutional provisions, no further formal attempt has been made to recognise civil society participation within the CE. That is, despite the recognition of the Conference as a CE institution, the organisation's Statute has not been amended accordingly. Equally, unlike the Congress, no Statutory Recommendation has been concluded, to officially recognise the Conference as CE institution. In this respect, the CE displays low levels of supranationalism in that the Conference is not a formal CE institution, and there has been no treaty evolution to accommodate civil society participation within the organisation's formal governance structures.

7.2.2. Organisational information and decision-making levels

The level of permeability in regard to the level at which access is granted depends upon the CE institution at which access is sought. The CM Resolution Res(2003)8 on the Participatory Status of INGOs outlines the modalities through which this participation is to take place, and the decision-making levels at which access is granted.

In respect to the modalities for cooperation between the CM and INGOs, the CM's "steering committees, committees of governmental experts and other bodies may involve the INGOs enjoying participatory status in defining the CE's policies, programmes and actions."[44] Here, observer status may be granted to the NGO Liaison Committee, and to the INGOs thematic groups. Nonetheless, access to decision-

[44] Resolution Res(2003)8, Participatory status for international non-governmental organisations with the Council of Europe, 19 November 2003.

making within the CM is generally quite restricted for all other CE institutions, and NGO representatives are unable to participate in the high level intergovernmental decision-making processes.

Given its role as the CE's chamber for democratic representation, the Assembly's procedures allow for closer cooperation with INGOs. Under Rule 43.5 of the Assembly's Rules of Procedure, each Assembly "committee may develop relations with non-governmental organisations which carry out activities within the committee's terms of reference." This is further reinforced under Assembly Resolution 1425(2005) of 28 January 2005, which outlines the "Terms of Reference of Assembly Committees." Here, "committees are entitled to establish and are responsible for developing working relations with the European and international non-governmental organisations which carry out activities within these committees' specific terms of reference."

Nonetheless, as observers within the Assembly's committee meetings, representatives from INGOs may speak but do not have the right to vote (Rules of Procedure, Rule 46.5). Additionally, Rule 46.6 prohibits the participation of observers in the meetings of the Joint Committee, – between the Assembly and the CM –, the Committee on Rules of Procedure, Immunities and Institutional Affairs, and the Monitoring Committee. In addition, no observers can participate in the meetings of the Committee on Economic Affairs and Development during discussions on the budget or on administrative questions relating to the functioning of the CE, and in relation to the Assembly's decision-making powers in respect to the CE's budget. In respect to the provision of information to facilitate INGO participation, INGOs have access to the agenda and public documents of the Assembly.

Resolution Res(2003)8 also encourages close cooperation between the INGOs and the Congress (Article 5).[45] Under Article 8 of this Resolution, INGOs may be invited to participate in the public meetings of the Congress. This Resolution underpins the provisions of Resolution 260(2008) adopted by the Congress in respect to NGO participation with local and regional authorities. Article 2 of Resolution 260(2008) clearly states, "partnerships that are freely entered into between local and regional authorities and NGOs help to strengthen local and regional democracy and citizen

[45] Committee of Ministers, Resolution Res(2003)8, Participatory status for international non-governmental organisations with the Council of Europe, 19 November 2003.

participation."[46] Under Article 9 of Resolution 260(2008), and with reference to its European Charter of Local Self-Government, the Congress has pledged "to encourage local and regional authorities to take account, where possible, of the action not only of local and regional but also international NGOs and to involve them, as often as possible, in the decision-making process in public affairs."[47]

However, in respect to INGO participation within the Congress itself, no specific procedures have been outlined within the Congress's Rules of Procedure. Rule 47.1 on "Hearings" allows for the Congress's Standing Committee to invite representatives of other organisations to attend a given meeting. In turn, under Rule 16.5, the Bureau of the Congress "may invite observers to its meetings and organise hearings of individuals and organisations."[48] Nonetheless, a Memorandum of Partnership assures for cooperation between the Congress and the Conference of INGOs, in which the Congress "disseminates among its members information on the various NGOs and [draws] attention to their expertise," whilst the Conference "undertakes to encourage NGOs to respect local and regional authorities capacity for independent decision-making and agree to be judged according to the public benefit they offer the public."[49]

7.3. Appraising NGO participation and democracy in the Council of Europe

7.3.1. Policy venue and NGO ideological missions

In their analysis of the increase in INGO participation within the CE, Trommer and Chari (2006) have sought to explain the increase in NGO activity in relation to the CE policy outputs, and influence on its member states. For the authors, the INGOs ideological missions are reflected in the organisation's preferences and identity. As seen above, the mandates of the Conference's thematic and transversal groups are more readily associated with the CE's democratic and human rights mandate.

In view of their mutually reinforcing interests, the CE, – in opposition to the EU –, is the preferred policy venue for ideologically based interest groups. This provides

[46] Congress of Local and Regional Authorities, Resolution 260 (2008) on the Partnership between local and regional authorities and non-governmental organisations in Council of Europe member states, 29 May 2008.
[47] European Charter of Local Self-Government of 15 October 1985, which entered into force on 1 September 1988.
[48] Congress of Local and Regional Authorities, Rules of Procedure of the Congress and its Chambers.
[49] Congress of Local and Regional Authorities, Memorandum on a partnership between local and regional authorities and NGOs in Council of Europe member states, 29 May 2008.

INGOs, and other civil society representatives, with the necessary external legitimacy to influence the domestic development of democratic values and democratic institutions within their own countries. This reinforces the argument posited by Archer (1994) in which NGO lobbying within the CE serves to strengthen the organisation's role in regional standard-setting, and in monitoring the domestic uptake of regional policies in the member states. In addition, the studies conducted by Pinto (1996) and, Pratchett and Lowndes (2004) also highlight the importance of the CE as the preferred policy venue for regional society participation. Again, for these authors, this contributes to the continued development of democratic institutions at the national level.

INGO participation within the CE is important in influencing how the organisation develops, consolidates and monitors regional norms. As Trommer and Chari (2006) note, the relationship between the CE and its INGOs is one of mutual interdependence. On the one hand, the shared values between the two allow for the regional organisation to use the INGO community in order to reinforce the importance of its mandate and policies in relation to both the member states, and the member states' societies. The INGOs work, and the texts adopted within the Conference illustrate this point. By means of example, the Conference adopted a Recommendation on the proposed CE's Convention on to prevent and combat violence against women and domestic violence.[50] In so doing, it reinforced the Assembly's call for the need to prepare the necessary legally binding instrument.[51] Additionally, the Conference's Recommendation on the Protection of Human Rights Defenders in the Russian Federation sought to emphasise the need to cooperate with the Commissioner, in its monitoring of Russia's commitment to the obligations entered into under the ECHR.[52]

On the other hand, the input from the NGO community is ever changing, thus reflecting the evolving democratic standards within European societies. In this sense, the CE's interpretation of regional norms in light of its member states' continued evolving normative standards serves to reinforce the INGOs own existence, mandates,

[50] Conference of INGO, Recommendation Conf/Ple(2009) Rec2 on the Proposed Council of Europe Convention to prevent and combat violence against women and domestic violence, 28 January 2009.
[51] Parliamentary Assembly, Recommendation 1847(2008) on Combating violence against women: towards a Council of Europe Convention, 3 October 2008.
[52] Conference of INGO, Recommendation Conf/Ple (2009) Rec5 on the Protection of Human Rights

and thus legitimacy, at both the national and regional levels. The European Convention on the Recognition of the Legal Personality of INGOs reinforces the necessity of a legal personality in order to strengthen civil society participation within the CE's governing structures. More recently, the provisions of the Conference's Code of Good Practice for Civil Society Participation in the Decision-Making Process serves to reinforce the importance of "NGO and organised civil society [as] essential contributors to the development and realisation of democracy and human rights."

More notable, however, is the Conference's Expert Council on NGO Law.[53] The Expert Council was created in January 2008 in order to "contribute to the *creation of an enabling environment for NGOs* throughout Europe by examining national NGO law and its implementation" (emphasis added).[54] During its three-year term, the Expert Council will monitor national legal frameworks on the status and operation of NGOs. Drawing on the CM Recommendation (2007)14 on the Legal Status of NGOs in Europe, the Expert Council's first thematic report of January 2010 examined the internal governance of NGOs in regard to their accountability, transparency and decision-making processes.[55]

7.3.2. Is there a real 'quadrilogue' in the Council of Europe?

The term "quadrilogue" has been adopted to describe the interaction between the CE's main institutions: the CM; the Assembly; the Congress; and, the Conference. However, to what extent is there a real "quadrilogue" within the CE? And, to what extent has the Conference, and its Standing Committee –, successfully contributed towards democratising the CE?

Notwithstanding the importance of its outputs, notably its Expert Council on NGO Law, the Conference and its Standing Committee exert limited influence within the CE framework. Despite its inclusion within the CE "quadrilogue," the Conference is subordinate to other CE institutions. This subordination is evident on several levels. In its "Contribution to the Draft Code of Good Practice for Civil Society

Defenders in the Russian Federation, 28 January 2009.

[53] Conference of INGOs, Conf/Plen(2009)CODE1 on the Code of Good Practice for Civil Society Participation in the Decision-Making Process, 1 October 2009.

[54] Conference of INGOs, Conf/Exp (2008)2 on the Expert Council on NGO Law, Introductory Memorandum.

[55] Expert Council on NGO Law, Recommendation Conf/Ple(2009) Rec1 on the First Report on of the Expert Council on NGO Law, 28 January 2009.

Participation," the report from the Assembly's Political Affairs Committee clearly states that "civil society participation cannot replace representative democracy in favour of participatory democracy."[56] That is, the democratic influence exerted by both the Conference, and through its Standing Committee, merely serves to reinforce the Assembly's primacy as the CE centre for democratic representation, and to a lesser extent, democratic control.

In addition to this subsidiary function, the Conference's finances and thus continued existence, is wholly dependent upon the CM. More recently, this was made evident in its Recommendation Conf/Plen(2009)Rec6 to the CM, in which it "[feared] that the current context of zero real growth in the budget may jeopardise" its "contribution to the spread of political dialogue within the Organisation."[57] An increase to its budget is therefore necessary in order "to enhance its capacity to fulfil its commitments vis-à-vis other [CE] bodies."[58]

This dependency on other CE institutions is also evident in respect to effecting Conference proposals. The Conference's policy outputs are in the form of Recommendations to other CE institutions. These Recommendations serve to either reinforce existing CE policies and programmes, or initiate new ones. With the exception of the Conference's Expert on NGO Law, these proposals can only reach fruition if they are then included in the CE's main Programme of Work, which is carried out by the organisation's other institutions.

Despite the Conference's limited success in contributing to the CE's democratisation, elevating the Conference to the status of a CE institution within the 'quadrilogue' illustrates its importance in respect to the following. First, this highlights the need for civil society participation in the CM's intergovernmental activities. Second, the Conference provides a framework for democratic participation within the organisation, strengthening the Assembly's role as the CE's chamber of representation. Third, in collaboration with the Congress, the Conference contributes to the strengthening of national democratic institutions, and national democratic participation.

[56] AS/Pol(2009)14, Contribution on the Draft Code of Good Practice for Civil Participation in the Decision-Making Process, 4 May 2009.
[57] Recommendation Conf/Ple (2009) Rec5, Conference of INGOs – a budget to meet its mission, 28 January 2009.
[58] Recommendation Conf/Ple (2009) Rec5, Conference of INGOs – a budget to meet its mission, 28 January 2009.

8. Concluding remarks

Despite the legal and institutional frameworks for INGOs, and their increased participation within the organisation, the CE remains an archetypically intergovernmental organisation. The increasing levels of INGO participation must be examined in relation to the CE's founding aims and objectives. The importance attributed to upholding pluralist democracy and the rule of law, and in protecting human rights and fundamental freedoms, serves to reinforce the CE member states' *own* claims to liberal democratic legitimation. In this respect, and as with all other international organisations, the CE's political legitimacy depends on the effectiveness of its outputs in relation to its member states' own interests. Thus, whilst the democratic and human rights outputs from both the CE, and the European Court of Human Rights, serve to promote the member states' interest in respect to preserving the regional democratic peace, protecting the individual is not the initial starting point for the CE's mandate. In this respect, civil society participation within the CE is peripheral to the organisation's intergovernmental mandate, from which its initial source of legitimacy is derived.

References

Official documentation

1. European Treaty Law

The Council of Europe's Statute, 5 May 1949

European Convention on Human Rights and Fundamental Freedoms, as amended under additional Protocol 11, 4 November 1950

The European Convention on the Recognition of the Legal Personality of International Non-governmental Organisations, 24 April 1986

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 26 November 1987

The Framework Convention for the Protection of National Minorities, 1 February 1995

Revised European Social Charter of 3 May 1996

- The European Social Charter 1961
- Additional Protocol to the European Social Charter of 5 May 1988, which entered into force on 4 September 1992
- Protocol amending the European Social Charter of 21 December 1991
- Additional Protocol to the European Social Charter Providing for a System of Collective Complaints of 9 November 1995, which entered into force on 1 July 1998

2. Committee of Ministers

Resolution (51)30F, Relations with International Organisations, both Intergovernmental and Non-governmental, 3 May 1951

Resolution Res(2003)8, Participatory status for international non-governmental organisations with the Council of Europe, 19 November 2003

Recommendation CM/Rec(2007)14, Legal Status of Non-governmental Organisations in Europe, 10 October 2007

Declaration on the Code of Good Participation in the Decision-Making Process, 21 October 2009

3. Parliamentary Assembly

Opinion No.182 (1994), Application by the Principality of Andorra for membership of

the Council of Europe, 4 October 1994

Amendment No.5 (1997), Honouring of the commitments by Ukraine to introduce a moratorium on executions and abolish the death penalty, Document Nos. 7974 and AS/JUR (1997)47, 23 December 1997

Resolution 1179(1999), Honouring of obligations by Ukraine, 27 January 1999

Recommendation 1395(1999) to the Committee of Ministers on the honouring of obligations by Ukraine, 27 January 1999

Resolution 1289 (2002), Parliamentary scrutiny of international institutions, 25 June 2002

Recommendation 1567 (2002), Parliamentary scrutiny of international institutions, 25 June 2002

Order No. 582 (2002), Parliamentary scrutiny of international institutions, 25 June 2002

Resolution 1529 (2006), Open and transparent voting in the Parliamentary Assembly, 17 November 2006

Resolution 1589 (2007), Cooperation between the Parliamentary Assembly and the Conference of INGOs, 23 November 2007

Recommendation 1820 (2007), Cooperation between the Parliamentary Assembly and the Conference of INGOs, 23 November 2007

Resolution 1619 (2008), State of democracy in Europe - Functioning of democratic institutions in Europe and progress of the Assembly's monitoring procedure, 25 June 2008

Recommendation 1847(2008), Combating violence against women: towards a Council of Europe Convention, 3 October 2008

AS/Pol(2009)14, Contribution on the Draft Code of Good Practice for Civil Participation in the Decision-Making Process, 4 May 2009

4. The Congress of Local and Regional Authorities

Committee of Ministers, Statutory Resolution (94)3 adopted at the 506th meeting of Committee of Ministers Deputies, 14 January 1994

European Charter of Local Self-governance, 15 October 1985

Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, 16 November 2009

Congress, Statutory Resolution CM/Res(2007)6, 2 May 2007

Opinion 31(2009), Code of Good Practice for Civil Participation in the Decision-Making Process, 10 June 2009

5. The European Commissioner on Human Rights

European Commissioner for Human Rights, Statutory Resolution (99)50 of 7May 1999,

6. Conference of International Non-governmental Organisations

Fundamental Principles on the Status of Non-governmental organisations in Europe, 13 November 2002

Declaration, "III Regional Congress of NGOs of the Conference of INGOs of the Council of Europe," 5-7 December 2008, Penza Russian Federation

CONF/PLE(2009)CODE1, Code of Good Practice for Civil Society Participation in the Decision-making Process, 1 October 2009

Outline of the 3 Year Framework Co-operation Programme (2008-2011), "Strengthening Civil Society and Civic Participation in the Russian Federation," 22 April 2008

Recommendation Conf/Ple(2009) Rec2, Proposed Council of Europe Convention to prevent and combat violence against women and domestic violence, 28 January 2009

Recommendation Conf/Ple (2009) Rec5, Protection of Human Rights Defenders in the Russian Federation, 28 January 2009

Recommendation Conf/Ple (2009) Rec5, Conference of INGOs – a budget to meet its mission, 28 January 2009

Expert Council on NGO Law, First Report on of the Expert Council on NGO Law, Recommendation Conf/Ple(2009) Rec1, 28 January 2009

Interviews

Interviewee No.1, Office of the Commissioner, 24 June 2009

Interviewee No.2, Committee of Ministers, 9 February 2010

Interviewee No.3, Parliamentary Assembly Secretariat, 11 June 2010

Case law

Sidiropoulos and Others v. Greece, Case No. 57/1997/841/1047, 10 July 1998

Dankevic v. Ukraine, Application No. 40679/98, 29 April 2003

Khokhlich v. Ukraine, Application No. 41707/98, 29 April 2003

Kuznetsov v. Ukraine, Application No. 39042/97, 29 April 2003

Poltoratskiy v. Ukraine, Application No. 38812/97, 29 April 2003

Gorzelik and Others v. Poland [GC], Application No. 44158/98, 17 February 2004

Books and articles

Archer, Clive. 1991. *International Organisations.* 3rd ed. London: Routledge

Beddard, R. 1993. *Human Rights and Europe.* Cambridge. Cambridge University Press

Beetham, D. 1999. *Democracy and Human Rights.* Cambridge: Polity Press

Bitsch, M.-T. 2004. "La mise en place du Conseil de l'Europe," in M.-T. Bitsch (ed.) *Histoire de la construction européenne de 1945 à nos jours.* 4th ed. Brussels: Editions Complexe

Boothby. 1952. "The Future of the Council of Europe." *International Affairs. Address at Chatham House, 19-02-1952,* 28**,** 331-337

Burchill, R. 2001. "The Promotion and Protection of Democracy by Regional Organisations in Europe: The Case of Austria." *European Public Law,* 7**,** 79-102

Cerexhe, E. 1979. *Le droit européen. Les institutions.* Leuven: Nauwelaerts

De Vel, G. 1995. *The Committee of the Council of Europe.* Strasbourg: Council of Europe Publishing

Dinan, D. 2005. *Ever Closer Union. An Introduction to European Integration.* Basingstoke: Palgrave Macmillan

Flauss, J.-F. 1994. "Kaleidoscope. Les conditions d'admission des pays d'Europe centrale et orientale au sein du Conseil de l'Europe." *European Journal of International Law* 5**:** 1-24

Greer, S. and A. Williams. 2009. "Human Rights in the Council of Europe and the EU: Towards 'Individual', 'Constitutional' or 'Institutional' Justice?" *European Law Journal* 15: 462–481

Haller, B. 2006. *An Assembly for Europe: the Council of Europe's Parliamentary Assembly 1949-1989.* Strasbourg: Council of Europe Publishing

Hawkins, D. 2008 "Protecting Democracy in Europe and the Americas." *International Organisation* 62**:** 373-403

Kover, J. F. 1954. "The Integration of Western Europe." *Political Science Quarterly* 69**:**

354-373

Lord, C. and E. Harris. 2006. *Democracy in the New Europe.* Basingstoke: Palgrave Macmillan

Nord, H. 1957. "In Search of a Political Framework for an Integrated Europe," in C. Grove Haines (ed.) *European Integration.* Baltimore: The John Hopkins Press

Pevehouse, J. C. 2002a. "Democracy from the Outside-In? International Organizations and Democratization." *International Organization* 56**:** 515-549

Pevehouse, J. C. 2002b. "With a Little Help from My Friends? Regional Organizations and the Consolidation of Democracy." *American Journal of Political Science* 46**:** 611-626

Pinto, D. 1996. "Assisting Central and Eastern Europe's transformation," in Council of Europe (ed.) *The challenges of a greater Europe. The Council of Europe and democratic security.* Strasbourg: Council of Europe Publishing

Political and Economic Planning. 1959. "The Council of Europe." *European Organisations.* London: George Allen and Unwin Ltd.

Powell, G. L. 1950. "The Council of Europe." *International Law Quarterly* 3**:** 164-196

Robertson, A. H. 1973 "The Council of Europe." *European Institutions. Cooperation, Integration and Unification.* London: Stevens and Sons Ltd.

Pratchett, L. and V. Lowndes (eds.) 2004. *Developing Democracy in Europe. An Analytical Summary of the Council of Europe's Acquis.,* Strasbourg: Council of Europe Publishing

Schimmelfennig, F. 2003 *EU, NATO and the Integration of Europe. Rules and Rhetoric.* Cambridge: Cambridge University Press

Schimmelfennig, F., S. Engert and H. Knobel. 2006. *International Socialisation in Europe: European Organisations, Political Conditionality, and Democratic Change.* Basingstoke: Palgrave Macmillan

Schlüter, K. 2006. "The Council of Europe. The Standard Setter," in M. Brosig (ed.) *Human Rights in Europe. A Fragmented Regime?* Frankfurt/M.: Peter Lang

Sithole, K. M. 2010. *The Council of Europe: political legitimation and rights protection*. Unpublished PhD thesis

Smithers, P. (ed.) 1970. *Manual of the Council of Europe. Structure, Functions and Achievements.* London: Stevens and Sons Ltd.

Trommer, S. M. & R. S. CHARI. 2006. "The Council of Europe: Interest groups and ideological missions?" *West European Politics* 29**:** 665-686

Walton, C. C. 1959. "The Hague 'Congress of Europe': A Case Study of Public Opinion." *Western Political Quarterly* 12**:** 738-752

INTERNATIONAL DEMOCRACY WATCH
C/o Centre for Studies on Federalism
Via Real Collegio, 30
10024 Moncalieri (TO) - Italy
Tel. +39 011.6705024
Fax +39 011.6705081
E-mail: finizio@csfederalismo.it
Web site: www.internationaldemocracywatch.org