

Council of Europe
Conseil de l'Europe



Strasbourg, 5 October 1995
<s:\cd\doc(95)\cd\misc3.e>



COE262740

Restricted
CDL (95) misc3
Eng. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

SPEECH

**ON THE OCCASION OF
THE 24TH MEETING OF THE VENICE COMMISSION
(7-9 September 1995)**

by

**Mr Andrestinos PAPADOPOULOS
Permanent Representative of Cyprus in Strasbourg
(Cyprus)**

Mr President, Ladies and Gentlemen,

It is a great honour and pleasure for me to address this plenary session of your Commission, devoted to the functioning of democratic institutions in Europe.

Last April, Mr President, during the exchange of views between yourself and the Ministers' Deputies, at that time under my Chairmanship, as Permanent Representative of Cyprus, you spoke of your Commission's statutory obligation to examine "the problems posed by the working of democratic institutions and their reinforcement and development", and the possibilities that it might be exercised also in the "context of monitoring procedures of the organs of the Council of Europe."

The representative(s) of the Parliamentary Assembly present today will no doubt inform you about the procedures, associated with the name of Mrs Halonen, pioneered by our Organisation's Parliamentary body. Where the work of the Committee of Ministers is concerned, I am well placed to give some brief comments on the texts which we have adopted on this matter - and with which I believe you have some familiarity - especially since this is a matter to which my country, during its 6 months' Chairmanship, gave high priority.

Indeed, the Foreign Minister of Cyprus took up his functions on 10 November 1994, at the close of the 95th Session of the Committee of Ministers, which adopted the "Declaration on compliance with commitments accepted by member States of the Council of Europe", the text of which is in your possession.

In adopting this Declaration the Committee of Ministers identified the need to ensure full compliance with the commitments accepted by member States. At the same time, the Committee of Ministers wanted to send the political message that the time has come to exercise its statutory responsibility incumbent upon itself for ensuring full respect of the accepted commitments in all present and future member States.

It is worthwhile noting that these commitments are all-embracing and cover Democracy, Human Rights and the Rule of Law, which in actual fact represent the values the Council of Europe stands for. Moreover, the Committee of Ministers, in a spirit of understanding, enunciates that it would consider matters brought to its attention in a constructive manner, using as tools dialogue and co-operation.

The moment of truth comes when the Committee of Ministers is required to take specific action. Thus, paragraph 4 of the Declaration states that the Committee of Ministers may decide to:

- request the Secretary General to make contacts, collect information or furnish advice
- issue an opinion or recommendation
- forward a communication to the Parliamentary Assembly
- take any other decision within its statutory powers.

One may observe that there is an element of escalation in these actions which goes from simple contacts of the Secretary General to a decision within the statutory powers of the Committee of Ministers, which can result even in the expulsion of a Member from the Council of Europe.

Presenting the Cyprus Chairmanship's programme, Minister Alecos P Michaelides declared that the Committee would "continue in earnest to seek greater efficacy in its procedures", with a view to ensuring compliance with commitments accepted by member States. This was, in his view "a far-reaching development" to which he would endeavour to rally the widest possible consensus among the Members.

It was this spirit that inspired our work in the months which followed, also in the special ad hoc Working Party, under the very able Chairmanship of my colleague the Ambassador of the Netherlands.

This work culminated in the adoption, under my Chairmanship, at the April 1995 meeting of the Committee of Ministers' Deputies - the same at which the exchange of views with yourself, Mr President, took place - of the Procedure and modalities for implementing our Declaration of November 1994. This text, with which the Ministers, at their most recent meeting, on 11 May of this year, expressed their satisfaction, is also in your possession.

Perhaps its outstanding feature is its aim to ensure - as called for by the Declaration adopted by Heads of State and Government at the Vienna Summit of October 1993 - compliance, without discrimination between old and new Members, with commitments accepted, in the framework of constructive dialogue - a form of dialogue which is also a distinguishing feature of the work of your Commission.

This then, Mr President, is an essentially political, dialogue-based mechanism, which does not in any way effect existing procedures arising from statutory or conventional control mechanisms, of a more legal nature.

The responsibility for the actual launching of the procedure in question is placed in the hands of the Secretary General to the extent that the first of the three annual meetings to be devoted - from 1996 and subsequently every second year - to this question, shall receive from him "a practical overview of the commitments accepted by member States", this overview to be based on "all relevant information". Here I would recall that the Declaration itself refers to "different sources such as the Parliamentary Assembly and the CSCE."

This of course leaves a certain margin of discretion to the Secretary General, but, speaking in my personal capacity, I would find it difficult, if not impossible, to imagine that he could wish to ignore the impressive expertise of the Venice Commission, not least in view of the mandate you received from the Committee of Ministers when it created this Commission in 1990 as a Partial Agreement, whose membership has subsequently never ceased to widen.

It is, in my view, hard to overestimate the importance of our soon-to-be-operational monitoring mechanism, which has already aroused considerable interest in other international organisations including OSCE and OECD, also from the point of view of the credibility of our increasingly Pan-European Organisation, to which your Commission, too, Mr President is making a notable contribution.