

# EUROPEAN CONFERENCE OF PRESIDENTS OF PARLIAMENTS

LIMASSOL 11 and 12 JUNE 2010

## Proceedings

**Friday 11 June 2010**

*The sitting opened at 10.10 am, with **Mr Marios Garoyian**, President of the House of Representatives of the Republic of Cyprus, in the chair.*

### **OPENING OF THE CONFERENCE**

#### **The President of the House of Representatives of the Republic of Cyprus**

It is with great pleasure and honour that I welcome you to Cyprus and to the European Conference of Presidents of Parliaments, in Limassol.

Undoubtedly this conference, which is held every two years, constitutes a unique occasion for dialogue and exchange of opinions between the parliaments and organisations united by the common aim of further promotion and enhancement of the non-negotiable principles and values the Council of Europe, and in particular its Parliamentary Assembly, has committed itself to serve and defend since its creation. Of the principles of democracy, freedom, defence of the rule of law, respect for the human rights and fundamental freedoms of all people. Irrespective of race, colour, religion or sex.

The work of this conference affords us an excellent opportunity to exchange ideas and opinions, as all of us here today share the same visions, but also the same concerns and considerations, while facing common challenges. Challenges we are called to meet, guided solely by the legitimate interests of our people. In addition, this conference is tangible proof of the good relations and the spirit of co-operation that prevail among us. These are valuable assets.

Assets in the difficult times our old continent and humanity in general are going through, because of the economic crisis that has hit all our countries and the continuing violation of human rights and fundamental freedoms of many of our fellow men. Including, unfortunately, the Cypriots who continue to be deprived of the inalienable right to live in conditions of peace and safety, without barbed wire or occupation troops. All Cypriots, Greek Cypriots, Turkish Cypriots, Armenians, Maronites and Latins alike, fervently wish to live in a reunified country, without dividing lines or uncertainties.

A just and viable solution to the Cyprus problem of course presupposes full respect for human rights and fundamental freedoms, as enshrined in international conventions, including the European Convention on Human Rights. The Parliamentary Assembly, but also the Council of

Europe in general, are the guardians of these rights and have the fundamental task of safeguarding them.

A correct solution to the problem, which has been holding the people of Cyprus hostage for 36 years now, also presupposes full respect for pertinent UN decisions, international law and the principles and values of the European Union. The Republic of Cyprus is a member-state of the Union and its citizens should not be treated as second-class European citizens, nor should they be deprived of fundamental rights, which are taken for granted in other European countries.

As Cypriots, we are really proud of our country's multicultural character through the centuries. We hope, therefore, that Cyprus will soon be able again to provide a shining example of harmonious co-existence, mutual respect and understanding.

This year's conference gives us the opportunity to discuss two themes of particular importance and broader interest. The first theme is "Rights and responsibilities of the opposition in a parliament" and the second is "National parliaments and international human rights law: implementation of the principle of non-discrimination".

The choice of themes reflects, in the first case, one of the most important challenges currently facing our parliaments, for the best possible development of the concept of democracy in practice. In the second theme, the choice reflects an inherent human rights principle, especially as described in Article 7 of the Universal Declaration of Human Rights and with the observation that its defence can unfortunately still not be considered self-evident or automatic.

We also hope that this conference will offer you all the opportunity to discover some of the natural beauties of our country, our civilisation and our rich history. To this end, a guided visit to the ancient theatre of Kourion will be organised tomorrow, where you will be able to attend the performance of an excerpt from an ancient tragedy by the playwright Aeschylus. You will also visit the picturesque wine-producing village of Omodos, where, among other things, you will share some of our people's traditions.

I wish you all a constructive conference and a pleasant stay in Cyprus.

Allow me now to give the floor to the President of the Parliamentary Assembly of the Council of Europe, Mr Mevlüt Çavuşoğlu.

**Mr Mevlüt ÇAVUŞOĞLU, President of the Parliamentary Assembly of the Council of Europe**

It is a great honour for me to open this conference, held for the first time on this beautiful island of Cyprus, a crossroads for civilisations over the millennia. May I thank you, Mr Garoyan, and through you the Parliament, for hosting this European Conference of Presidents of Parliaments, bringing together speakers from nearly all the 47 member states of the Council of Europe around themes of the highest relevance.

We are only a few miles away from the rock of Petra Tou Romiou, where Aphrodite, the Goddess of Love, arose from the waves – the fruit of a union between Uranus, the Father of the Heavens, and Gaia, the Mother of the Earth. Looking out over the expanse of the Mediterranean from here, I feel that there must be some truth in the legend.

The first theme of our conference is "Rights and Responsibilities of the Opposition in Parliament". This, I am sure, will have a particular appeal for you. For, during the often long careers that preceded your present role as Speakers most, if not all of you, will have spent time in opposition. During those periods, you must have been eager to present opinions contrary to those of the government of the day. You were waiting for the time when your party could be in government and realise your political goals, perhaps also wishing you had more rights as opposition than you did.

And now, as Speakers - presumably from the governmental majority as is normally the case in our parliaments - you are in a position to reconcile this memory with your present supreme obligation, namely that of impartiality. You must often perhaps even bend over backwards not only to be objective – neutral and rule-bound - in your running of the business of your parliament, but also, equally important, to be seen by your peers and the public as being impartial. You may even occasionally have to be impartial to the point of favouring the minority, in order not to be blamed for any perceived partisanship in favour of the majority.

With all this sensitivity acquired over a long career - first as ordinary members of parliament and then as Speakers - you will certainly have given much thought to our first theme, which covers not only the rights, but also the responsibilities, of the opposition. Add to this the very detailed background document in your files and I am sure we will have a very good discussion, and be able to identify various areas where we can do better than we have so far in safeguarding the rights and responsibilities of an opposition in parliament.

For what is government - what indeed is democracy - without a lively, constantly questioning, irksome, irritating opposition? How can we sharpen our arguments unless others, whom we want to convince, question them? It is no coincidence that in the best functioning democracies, the end result of the process 'thesis versus anti-thesis' is 'synthesis', in which majority proposals incorporate at least some elements advocated by the opposition.

Political life seems to be best when there is at least a degree of compromise between the majority and the minority, and this presupposes a certain give-and-take between them. When the opposition feels that its views get heard and it is respected, it will also feel greater responsibility for the business at hand.

I wish to add that the Parliamentary Assembly of the Council of Europe was the first international parliamentary assembly in the world to demand that its delegations ensure a fair representation of the political parties or groups in national parliaments. This requirement reflects the importance that our Assembly attaches to political pluralism and the interaction between majority and minority groups, between political forces supporting the government and those opposing it.

I am sure we will have a very good discussion on this theme.

The second theme is about how we may better implement, at national level, the principle of non-discrimination as defined in international human rights law. Here, you are also very well placed as speakers, for what is non-discrimination if not impartiality?

We are asked to consider ways in which we may ensure non-discrimination not only in the life of our parliaments, but in any set of legislation that we vote. Again you have a very interesting paper in your files suggesting ways in which the situation may be improved, such as via ratification of Protocol No. 12 to the European Convention on Human Rights.

Here I am fully aware that we come close to the political terrain, where it may be difficult for some of you to pronounce on policy options. Indeed, only 17 out of the Council of Europe's 47 member states have ratified Protocol No. 12, 20 more have signed but not ratified it, and several countries have expressed reservations. But it is important that we examine together what might be done more generally to embody human rights principles of non-discrimination within our national legislation.

For me, the increasing intolerance and discrimination in our societies are one of the biggest challenges of the era of globalisation. With the consequences of the economic crises, these problems have become even more acute.

As I declared in my speech when I was elected President of the Assembly last January, the foundation of our common European home must be an open society based on respect for diversity, not on exclusion, not on discrimination, not on fear and certainly not on hatred.

In order to fight discrimination, legal instruments are, of course, necessary. However, we must also strive to improve the general climate in our societies. That means enhancing inter-cultural dialogue, including the inter-religious dimension. We must eradicate racism, xenophobia, anti-Semitism, Islamophobia and all kinds of similar phobia leading to discrimination and intolerance.

The Council of Europe has a leading role in all these areas, including the Parliamentary Assembly. The Assembly has also been active in combating gender-based discrimination and equal opportunities for women and men. I might add in this context the pioneering role of the Assembly amongst international assemblies: under its rules of procedure, national delegations are required to include the under-represented sex at least in the same percentage as is present in their parliaments, and in any case one representative for each sex.

There is one more subject I would like to raise. I have referred to the beauty of this island. We also know that the Island had a tragic past. The Council of Europe - including its Parliamentary Assembly - has returned to the Cyprus issue on many occasions and with many initiatives. The aim has been, and still remains - if I may borrow a phrase from the Parliamentary Assembly's Resolution 1628 of 2008 - to find "a lasting and comprehensive solution for a peaceful and united Cyprus, which would guarantee the legitimate rights of both Greek and Turkish Cypriots, in full compliance with the values and principles of the Council of Europe".

We are heartened that talks between the two sides are once again under way, and we hope and trust that they will bear fruit as soon as possible. As President of the Parliamentary Assembly of the Council of Europe, I can only reiterate the words of the United Nations Secretary General, Mr Ban Ki Moon, when he stated his conviction, a few days ago, that "a settlement is within grasp and the opportunity must be seized".

One of our initiatives towards this end is the Council of Europe's "European Forum Cyprus". This Forum, which is co-financed by the European Union, provides a platform for young Cypriot leaders from all walks of life in the two communities on the island. It is meant to foster the social contacts and discussion between the two sides, and thereby contribute to mutual respect, confidence and co-operation between future generations of Greek and Turkish Cypriot leaders – a necessary condition for a peaceful and prosperous Cyprus and the region.

One of my predecessors, Mr Rene van der Linden, former President of the Parliamentary Assembly, was behind the setting-up of this Forum. I am very pleased and honoured that we will meet with Forum participants in the course of this conference to exchange views and give our encouragement to this initiative.

Speaking about initiatives of the Parliamentary Assembly, may I point out that we are also the only European assembly in which elected representatives of the Turkish Cypriot Community participate on a regular basis. I also recall how the leaders of both sides addressed our Parliamentary Assembly during the same session, in October 2008, when our Parliamentarians also had the opportunity to exchange views with them.

Mr President, ladies and gentlemen, at the beginning of my speech I referred to Aphrodite, the Goddess of Love, born of a union of heaven and earth. As we know, heaven and earth are part of the same universe. By the same token, the two parts of this island are also parts, not only of the same universe, but also of the same earth, indeed of the same island. So may Aphrodite, legend or not, inspire us all, not only in working in close unison together at this conference, but also in the task of bringing the two parts of Cyprus closer to each other.

## **Chair**

I now call the President of the Republic of Cyprus, Mr Demetris Christofias.

**Mr Demetris CHRISTOFIAS, President of the Republic of Cyprus**

I am particularly happy to welcome you to Cyprus. Hosting the European Conference of Presidents of Parliaments is a great honour for Cyprus. I am sure that you will have the opportunity to discuss the most important challenges faced today by humanity as a whole. Challenges which concern all of us together and each one of us individually. The role of national parliaments, the role of international parliamentary organisations and their co-operation has always been and remains critical as regards the rapid developments –both positive and negative- facing humanity today.

I believe that the agenda of the conference will give you the opportunity to discuss in depth an extremely interesting topic namely the "rights and responsibilities of the opposition in a parliament". This has always been an issue of public debate and one that touches upon the essence of democracy as well as the content of the effort to consolidate democratic legitimation of the functioning and the decisions of parliaments, and the democratic control of governments.

Equally important is the second theme of the conference: "national parliaments and international human rights law: implementation of the principle of non-discrimination". Unfortunately, in the 21st century and in spite of the progress achieved by mankind, we cannot but admit that we still have a long way to go in order to achieve in practice the desirable degree of implementation throughout the world of the Universal Declaration of Human Rights. Your host country itself has been and still is the victim of violation of the human rights and fundamental freedoms of its people as a result of invasion and occupation. Cyprus continues to struggle ceaselessly in order to restore the human rights and basic freedoms of its people as a whole, Greek Cypriots, Turkish Cypriots, Maronites, Armenians and Latins.

Article 7 of the Declaration on the principle of non-discrimination and which you will be dealing with in particular, is no exception to the general observation that as a global community we have yet many steps to take, before we are in a position to consider universal implementation of human rights as a global acquis. National parliaments and international parliamentary organisations have an important role to play in this respect.

I am certain that through the discussion which will take place during the deliberations you will have a very productive two-day conference and that the general conclusions and results reached will contribute decisively to tackling these critical issues.

After what the President of the Parliamentary Assembly said about the Cyprus problem, I wish to repeat in front of all of you that, ever since I was elected President of the Republic of Cyprus, I have committed myself to making every effort to end the tragedy of the Cypriot people in order that Greek and Turkish Cypriots might once again live, unsupervised, in conditions of peace and democracy, and of course in accordance with the principle of respect for human rights, all human rights. And that applies to all Cypriots, whatever their origin, because there can be no second-class citizens in the Republic of Cyprus.

That is my vision, and that's what I have been working so hard for. I am confident that, through this approach, we will quickly manage to find some common ground with Mr Eroglu, enabling us to come up with a rapid solution to the problem. A former President of Cyprus once said: "I would have liked to find a solution yesterday". I have taken those words to heart. It is in the interest of the Cypriot people as a whole to find a solution to this problem based on justice, international law, human rights, and the relevant human rights conventions and treaties. This is what I have pledged to do, and I wish to repeat it again before you at this very important conference: we must commit ourselves to promoting and protecting the principles and values that the Council of Europe holds dear.

I hope you will take the opportunity during your stay in Cyprus to discover some of the beauties of our country.

Thank you for your attention.

## Chair

I now invite you to agree on the agenda.

This morning and this afternoon will be devoted to the first theme of the discussions: rights and responsibilities of the opposition in a parliament.

Tomorrow, we will debate the second theme: national parliaments and international human rights law: implementation of the principle of non-discrimination. In addition, the President of the Parliamentary Assembly, Mr Çavuşoğlu, and myself will present a summing-up of the proceedings just before lunch.

*The agenda was adopted.*

## Chair

Among the meeting papers you will find the conference rules.

In accordance with those rules and past practice, the President of the Parliamentary Assembly will act as Deputy Chair of the conference.

I shall now hand over to the Deputy Chair so that I can accompany the President of the Republic. I know I leave you in good hands.

## **First session: Rights and responsibilities of the opposition in a parliament**

*Chaired by Mr Çavuşoğlu, Deputy Chair*

## Chair

To introduce the debate I would like to give the floor to Ms Tseska Tsacheva, Speaker of the National Assembly of Bulgaria.

## **Ms Tseska TSACHEVA, Speaker of the National Assembly (Bulgaria)**

Allow me on behalf of the National Assembly of the Republic of Bulgaria to extend greetings to the representatives of the Cypriot Parliament, our kind hosts, the President of the Parliamentary Assembly of the Council of Europe and all our colleagues who are attending this European Conference of Presidents of Parliaments.

Parliamentary opposition in present-day Europe embodies the following paradox: it is never completely opposition-minded. It will be observed that the opposition plays a particularly important role in the context of parliamentary representation in Europe today. This may sound somewhat trivial but nonetheless we have to repeatedly bring this fact to mind as in the heated polemics of daily political life, we tend to forget it. The unequivocal reasoning behind this assertion is rooted in the constitutionally embedded function of representation. It binds to governance responsibility not only the ruling majority but the opposition as well. I do not intend, however, to dwell on the legal and constitutional grounds for the highly important role which the opposition plays in parliamentary rule. Instead I would like to focus on its functional dimensions, as seen through the prism of the National Assembly of Bulgaria. These dimensions can be divided into 3 main groups: first, effects on the political parties; second, on the parliamentary institution and third, on democratic rule in general.

For political parties, the fact of being in opposition has unquestionable advantages with regard to its institutional development and the development of expertise. When a party moves from government to opposition, parliament turns into a base that allows it to maintain its government and expert potential. Parliament is the venue where former and future ministers continue to be

involved in politics and where they have the opportunity to actively participate in the policy-making process. The shadow cabinets in Great Britain are a telling example in this regard: safeguarding and further enhancing this potential helps to maintain continuity and achieve professionalisation of governance. When an opposition party assumes the responsibility of forming a new cabinet, its capacity developed throughout the time spent in opposition becomes a prerequisite for effective governance. This particular aspect brings with it opportunities but also obligations.

For a political party, being in parliament, albeit in opposition, is a condition for its survival. Typically, the failure of a political party to secure seats in parliament for two consecutive terms results in its being marginalised. Being in parliament, however, cannot be an end in itself for opposition parties. They have to take advantage of the parliamentary activities in order to streamline their expert potential as a corrective to the majority. The opposition's proactive and constructive engagement in plenary debates is both its primary responsibility and, at the same time, a prerequisite for the development of its capacity to govern. This is especially true of countries involved in the European integration process, which requires from members of parliament an ever-growing technocratic expertise. This inevitably leads to transformation in the parliamentary debate, which evolves from an arena for ideological clashes to a space where various visions of governance intersect. This process provides a unique opportunity for the parliamentary institution to gain recognition as a centre for policy shaping and open expert discussion. In order to fully utilise this opportunity, opposition has a key role in its capacity as a proactive and constructive player. By way of parliamentary oversight procedures, the opposition could contribute to enhanced transparency in the policy-making process. At the same time, through its representatives in the parliamentary committees, it could also initiate debate and contribute to the adoption of new governance decisions. In the EU states, the opposition avails itself of yet another instrument for influencing the process of governance. The presence of opposition parties within the European party families enables them to exercise influence at supra-national level. Thus they become engaged in EU policy-making, adding further importance to their role. The new European realities have compelled the opposition parties to evolve from being mere critics of the majority and to become "generators" of policies.

I would like to hear what you think about this but it seems to me that, in a parliamentary democracy, opposition is the most powerful instrument for minority interest representation. This representation ensures the overall legitimacy of government as well as the integrity of the nation. In the current macropolitical environment, opposition has yet another function of importance for democratic governance and that is the normalisation of extreme parties, a frequent European phenomenon of late. A close look at European party systems shows that the institutionalisation of extreme, anti-systemic parties into parliamentary opposition makes for their democratisation, and for a softening of both their political rhetoric and their extreme political visions.

In order to effectively implement the functions mentioned above, the opposition needs to be given institutional incentives for active engagement. This kind of motivation could be provided in the following ways, and here I would like to share with you the experience of the National Assembly of the Republic of Bulgaria. First, establishment of committees on a parity basis. Second, rotational chairmanship of parliamentary committees. We have two very important oversight committees which are chaired on the rotation principle: at present, the ruling party holds the chairmanship but later it will be the turn of the opposition. Third, giving the opposition the opportunity to influence agenda-setting for plenary sittings and committee meetings. In the rules of procedure of the National Assembly, we have introduced provisions that allow parties to set the agenda for parliamentary business on a rotational basis, starting with the biggest party and working down to the opposition parties, the minority parties. For example, on the first Wednesday of the month, when the first plenary sitting is held, the agenda is set by the opposition. Higher requirements for quorums and majority voting apply when important decisions are adopted in plenary and in committees, and I would like to point out here that in some standing committees a two-thirds majority is required.

Expanding the expert capacity of the parliamentary institution is another way of actively involving the opposition. Different committees might be chaired by members of the opposition and these could appoint experts, to work on a contractual basis.

The process of providing wider opportunities for the opposition needs to be careful and well-balanced. An essential condition for that is the presence of a responsible and constructive opposition in parliament. If that condition is not met, the kind of measures referred to here could eventually end up blocking the work of the parliamentary institution. In this sense, whatever rules and institutional instruments we use to induce the opposition to engage in the parliamentary process, we must not neglect one fundamental point: being in opposition is above all a responsibility, parliamentary, political and, broadly speaking, social.

I do not intend to dwell in detail on parliamentary oversight, which is a very important method of enabling the opposition to participate more actively in parliament, because I would like to hear your opinions on this subject. I would also like to hear about your experiences and best practices regarding the rights of the opposition, notably in procedural matters. (*Applause*)

**Chair** – Thank you very much, Ms Tsacheva, for your very densely-packed contribution. It has given us plenty of food for thought.

We come now to the debate proper. The list of speakers has been handed out. In accordance with our Rules, the speaking order was decided this morning by drawing lots. If anyone wishes to be added to the list, I would ask them to contact the conference secretariat. I would remind you that, under the Rules, speeches should not exceed 5 minutes, although given the number of speakers, we will try to be flexible. Once all the members down to speak have done so, there will be an opportunity for comments from the floor.

**Mr Trajko VELJANOSKI, President of the Sобрание (“The former Yugoslav Republic of Macedonia”)**

When we speak about democracy, we always refer to the relationship between the government and the parliament, the co-operation between them but also the tensions present in this relationship. Unlike the government, which is more unified by nature, the parliament as a legislative body reflects the political and sometimes the ethnic diversity of a society. Parliaments in all states work very transparently so that the public, that is to say, the electorate, can evaluate the work of both the majority and the opposition.

The presence of the opposition in a parliamentary democracy is an essential part of general human rights. Its presence and in particular its acceptance as a political reality is the basic criterion by which a state or society is judged to be democratic or authoritarian.

The position of opposition parties in a parliamentary democracy is stipulated in the constitution or by law in only two European states. The Council of Europe, however, and its institutions – the Parliamentary Assembly and the Venice Commission – have adopted numerous resolutions and other documents which deal with this issue. Additionally, when we speak about the rights and obligations of the opposition, it is important to remember that these are closely connected with the political culture, which is something that cannot simply be taken from other countries, but must be built.

Ladies and gentlemen, you can have real opposition in a parliament, and not just a decorative one, only with true, fair and democratic elections. Since we in the Republic of Macedonia gained independence, we have had 6 parliamentary elections, characterised as fair and democratic, and compliant with European standards. This is clearly stated in the OSCE-ODIHR and Council of Europe reports. Thus, the present composition of our Assembly fully reflects the will of the people. The Assembly of the Republic of Macedonia as well as every other democratic parliament operates in accordance with rules of procedure, whose provisions favour neither the majority nor the opposition and secure equality as well as responsibility for every MP in the overall process of

adopting laws and the other activities of the Assembly. That is why I would like to mention several practical solutions which reflect the position of the opposition in our Assembly.

One of the three Vice-Presidents of the Assembly is elected on a proposal from the opposition and is a member of the opposition party. Representatives of the opposition chair several important committees such as the budget committee, the standing inquiry committee on protection of civil freedoms and rights, the committee which supervises the work of the security and counter-intelligence directorate and intelligence agency, as well as the national council for European integration.

An important indicator of the rights of the opposition are the regular weekly co-ordination meetings which are attended by the co-ordinators of all the political groups and the Vice-Presidents of the Assembly of the Republic of Macedonia. These meetings are chaired by the President of the Republic of Macedonia. At these co-ordinated meetings, we agree, usually by consensus, on the agenda for the plenary sessions of the Assembly, the working methods of the parliamentary bodies and the overall work of the Assembly. Also, the Assembly is regularly informed by the government representatives who attend these meetings about any bills the government is planning to table. In this way, both the majority and the opposition, through their proposals, opinions and remarks, can influence the work of the government.

The law on the Assembly of the Republic of Macedonia which was adopted recently aims to strengthen parliamentarism, which means strengthening the rights and obligations of all MPs. This law strengthens the oversight role of the Assembly over the executive and allows the committees to organise debates on the implementation of a particular law. These debates are attended by MPs, government representatives, ministers, deputy ministers, experts and representatives of NGOs. During these debates, the opposition is very critical of the activities of the government but it also highly constructive.

Certainly we take care to provide funds, facilities and other conditions necessary for the normal work of every MP, whether members of the ruling party or of the opposition parties. Also, we have established 50 offices in constituencies around the country where parliamentary assistants are employed and facilitate contact between MPs and citizens.

Every last Thursday of the month we have a plenary session during which MPs put questions to the government, and opposition MPs have the right to put twice as many questions as MPs representing the majority.

Ladies and gentlemen, transparency in the work of every parliament is a condition without which we cannot speak about democracy and, hence, about the rights and obligations of the opposition. In the Assembly of the Republic of Macedonia, the overall legislative process is executed electronically, from the arrival of materials to the tabling of amendments and the adoption of laws. All of this is accessible to the public via our website. In addition, minutes of committee debates and stenographic notes from the plenary session are accessible to the public through our website. Another important mechanism is the Assembly TV channel, which broadcasts all the plenary sessions, committee debates and the scrutiny debates. Thus the opposition can present their opinions, remarks and arguments in a very transparent manner and the public can evaluate the work of all MPs.

Dear colleagues, I do not wish to present an idealised picture of the situation in our parliament. The issue of the relationship between the opposition and the majority is not one that can be resolved once and for all. It requires constant work.

I am personally encouraged by the fact that we have adopted and implemented the fundamental standards of modern parliamentarism and that we are moving in the right direction as regards the rights and obligations of the opposition. I should also like to mention here the assistance that we have been receiving from the Council of Europe and its various bodies, primarily the Venice

Commission. That is why I believe that this conference will bring new experiences, new recommendations and opinions concerning the further development of parliamentary democracy.

Lastly, I would like to express my gratitude to our hosts for the excellent manner in which they have organised this conference. Thank you.

**Baroness HAYMAN, Speaker of the House of Lords (United Kingdom)**

I am delighted to be at my first gathering of Council of Europe speakers. The Council of Europe and I were born in the same year, so we are coming into our prime together!

Could I echo some of the comments that have already been made on the issue of the centrality of effective opposition to effective working democracies? Abba Eban, that great Israeli statesman, was eloquent on this subject decades ago. He spoke about how an elected government does not by itself guarantee a country's democracy. That in order for the citizen to be properly represented, there has to be an effective challenge to any government. He spoke of how it was an honourable estate, of how it was the citizen's protection against the possibility of elective dictatorship. He spoke about how it was the way in which you could pay your respects, the way in which you, as a politician, could make a tremendous contribution to your country. He said it was therefore extraordinary that with such a crucial and valuable role, no politician ever volunteered to be in opposition!

However, perhaps that was because opposition also brings with it many responsibilities and some difficult judgments: those judgments between constructive challenge and destructive undermining of leadership nationally. And I think that's a challenge that many of us would recognise today, a challenge that comes to the fore at times when countries are threatened and when nations are threatened. It comes to the fore when countries are in crisis and that crisis can come about because of involvement in military action, because of the threat of terrorism or the experience of terrorism, because of the threat of economic catastrophe. And I think for every opposition within a parliament, deciding on its stance at a time when there are those sorts of very crucial threats to a country, the need for good judgment and responsible actions is enormously heightened.

To speak for a moment or two about the United Kingdom, we have recently, as you know, had a general election which has brought enormous change. We have the first peacetime coalition government in about 80 years. We are having to learn how to deal with a government that is formed from more than one party and, frankly, an opposition that becomes single-party. We're used to having several oppositions, and that has effects for us in the unelected House of Lords as much as it has effects in the elected House of Commons.

So we are concerned not with the theory, not with examining, as we will be doing today, various aspects of opposition, but very much with the practicalities of redrawing the rights of opposition in every aspect of the House of Lords' work. In the planning of business, in the balance of committee membership, in the time-tabling of business, in speaking rights, the question of who gets called, who has the opportunity to wind up in debates, and also in the very important issue of the financial support that is given to parties in opposition.

And in doing all of that, I think that as parliamentarians, what we have to do, and what as speakers we have a particular responsibility to do, is to make sure that these decisions and arrangements, some of which may seem very bureaucratic, actually end up improving the quality of the scrutiny that is given to legislation and the challenge that is given to government. Often parties that don't feel responsible, or don't take their responsibilities seriously, can feel that opposition has its advantages, and that feeling can come to parties that have borne the weight of government for many years. Opposition gives a party the opportunity to reflect and to refresh itself. And again the challenge for a party newly in opposition is to go through that internal process while going through the external process of maintaining good government - in the UK, we call it Her Majesty's loyal opposition -, of contributing to the quality of national governance as well as national policy-making.

I think it's interesting that, if you look at the experience of the Liberal Democrat party in the House of Lords, to see that, on the face of it, it has gained an enormous amount. Coming into government for the first time in many, many decades, the first liberal democrat is a minister speaking for the government. But they have also lost a lot. They've lost their spokesman, they've lost their guaranteed speaking rights, they've lost the money to support their office, they've even lost the seats that they sit in, and they're having great battles at the moment with the bishops, the representatives of the Church, as to who shall sit where.

But we are also coming to terms with a new position, a position where we have one party in opposition and a government that brings two parties together. And I think the challenge we have to rise to is to make sure that the relationships are productive between those big blocs but that they are not so cosy and comfortable for those two major institutions as to squeeze the rights and ability of minorities – in the House of Lords we have a great bloc of independent peers – of those people to participate in the business of making legislation and of holding government to account.

### **Mr Claudio MUCCIOLI, Consiglio Grande e Generale (San Marino)**

Democracy, and the rights and responsibilities of the opposition, are one of the cornerstones of modern parliamentarianism and of course of the Council of Europe.

I am particularly pleased and honoured to be able to pass on to you in this august assembly the experience of a small country like San Marino, briefly outlining some of the characteristics of our democratic system.

The modern San Marino system of direct representation was based on the Arengo, a form of assembly made up of heads of families, the content and form of which in some ways anticipated today's parliament.

Our republic is well suited to modern democracy, on the one hand safeguarding, and taking care to conserve, the best and most effective traditions of democracy, as experienced throughout our history and, on the other hand, introducing the principles and instruments which are among today's most progressive in the area of constitutional and electoral law: universal suffrage, freedom of expression, voter participation, governance and the introduction of suitable control mechanisms for parliament and the executive.

Although the need to introduce a new direct democratic system – the referendum – was discussed as early as the beginning of the last century, it was only in 1981 that the San Marino population was able to benefit from such an instrument for the most important issues. This system has proven its worth as the citizens of San Marino have always been able to present every 6 months to the head of parliament any petition, using the old direct democratic instrument of the Arengo. This has always been a useful and very important instrument for our people.

This brief presentation which I am making today is something which is important for me because I feel that we can be considered a true democracy. We are all here today to look at how we can reconcile the requirements of government and the executive, while taking account of the control mechanisms which are necessary for the opposition vis-à-vis the executive.

By what means can the rights of the opposition be guaranteed? In recent years we in San Marino have not only seen major reforms of our institutions, but we have also passed a new electoral law. This important piece of electoral legislation was necessary not just to guarantee political stability but also to ensure we did not lose sight of the central position of parliament.

I am talking here about the motion of no-confidence, either in the government or in a single member, which can be triggered by at least one quarter of members of parliament. This demonstrates what a high level of collegial responsibility we have been able to achieve within the government. Separation and balance of powers, the rights and responsibilities of the opposition in parliament are a necessary complement to the process of constitutional review which has been

going on over the past few years and in the course of which we have been considering how the old democratic traditions of our country can continue to be effectively used and put properly into practice.

Chairman, colleagues, I hope I have shown you how the Republic of San Marino, a very small country, can be part and parcel of the international context thanks to its long-standing tradition of democracy.

The point I am making is that there is a need to make better use of the instruments for participation in the major international organisations, particularly the Council of Europe. In this context, it is important to recall the Parliamentary Assembly's proposals relating to the rights and obligations of the opposition, bearing in mind that such rights and obligations make Europe even more democratic.

I should like to conclude by expressing the hope that here we can all play a part in reinforcing the principles of pluralism and democracy and well-balanced powers in order to ensure that our institutions are as representative as possible and enjoy the broadest popular support.

**Mr Marc LE FUR, Vice-President of the National Assembly (France)**

First of all, I would like to say on behalf of the French delegation that I am very happy to be here, on the magnificent island of Cyprus, and to be taking part in this conference which will no doubt be very interesting. The topic being discussed – the rights and responsibilities of the opposition – is of considerable relevance in France where it was decided, as part of the constitutional reform of 23 July 2008, to enhance the powers of the opposition.

In 1958 the Fifth Republic was created by General de Gaulle. At the time, the founders believed in the need for a strong executive, having learned from France's experience during the Fourth Republic, when the executive was seen as being too weak. The idea, then, was to have a strong executive and hence, in the name of so-called "rationalised" parliamentarianism, a parliament that was fairly tightly controlled and, by the same token, an opposition that was fairly tightly controlled.

Today we are slowly moving away from that system, specifically through the reform of 2008, which had two goals: to give parliament greater powers and to increase the capabilities of the opposition. These two points are very closely linked. Majority MPs and the majority group, which sometimes has a dialectical relationship with the government, gained most from this reform, but opposition MPs benefited too.

I myself am a member of the majority that supports President Nicolas Sarkozy and I must say that the two major reforms that enhanced the powers of the opposition in France, in 1974 and in 1998, were both pushed through by right-wing majorities.

What has been happening since 2008 and why was it necessary to increase the powers of the opposition? The fact is that the majority took a gamble: the more means and rights the opposition has, the more responsible it will be. It is too early yet to say whether our gamble has paid off. But I hope and trust that it will. We took the view that an opposition that lacked certain rights sometimes tended to act irresponsibly. We saw an example of this during the last parliament when the opposition, possibly due to a lack of rights, made extensive use of delaying tactics. One favoured method which greatly irritated the majority and the public alike was to table large numbers of amendments. In the case of one bill concerning the energy sector, there were over 100,000 amendments. Just imagine what would have happened if we had had to examine every single amendment in open parliament: it would have taken several years to pass the bill. Hence our move to deter the opposition from engaging in further abuses of this kind and, in return, to grant it new rights.

The 2008 reform was not the result of a consensus but of a decision by the majority group to enhance the powers of parliament and of the opposition groups. These last needed to be identified

and it was decided to do so using the declaratory process. We also had to ensure that these groups enjoyed more rights. One of these rights is fairly substantial and had been announced by Nicolas Sarkozy in 2007, during his presidential campaign: the chairmanship of the finance commission should be held by a member of the opposition. This was not an easy move, because the commission in question is considered to be the most powerful in the National Assembly.

Secondly, the principle of proportional representation was adopted when it came to ensuring that the opposition was represented in each of the commission bureaux. The Assembly Bureau already operated on this principle, having had Vice-Chairs from the opposition since 1958.

The third idea was to grant enhanced oversight powers. There was already a tradition whereby scrutiny and inquiry commissions had a bi-party leadership drawn from the ruling party and the opposition. This kind of bi-partisan approach, which already existed in practice, was now enshrined in the rules.

The fourth idea was to give more powers to the opposition in terms of how debates were actually organised. Consider, for example, question time, when twice a week MPs have the opportunity to question the government on topical issues. This phase of the parliamentary debates and discussions is closely followed by the public, and at times the Government can find itself in a very uncomfortable position because it has only a short time in which to comment on the latest events. Now, half of the questions come from opposition MPs. It is a real sacrifice for the majority groups, and in particular the UMP which, in addition, has had to come to terms with the fact that there is another majority group.

Once a month, opposition groups also have the opportunity to table draft laws, to which the Government has to respond. In this way, opposition groups get the chance to outline their programme, although, in my personal view, this has also led to some frustration. For in a majority system such as France's, one of two things tends to happen: either the bill tabled by the opposition commands a broad consensus and is adopted, but the discussions surrounding it fail to generate much interest, as the bill could equally well have been tabled by the majority; or else the whole purpose of the bill is to create trouble for the majority, in which case it is doomed to fail.

It has to be said that the media rarely show much interest in these days reserved for the opposition, as they know the bills in question have little chance of ever becoming law and hence impacting on the lives of ordinary French people. That said, this innovative practice does at least give the opposition an excellent opportunity to air its views.

In order to counterbalance these significant gains for the opposition, the majority wished to introduce a procedure known as "scheduled legislative time" so that the Assembly would not be obliged to discuss countless time-wasting amendments. It is now possible to set time-limits for examining texts in open debates and to assign each group a speaking time. Once a group has used up its allotted time, no other member of that group may take the floor, even to support an amendment.

The idea of this arrangement is to ensure better planning of Assembly's business and to enable the majority to implement the programme on the basis of which it was elected, which is after all the very basis of democracy.

As you can see, therefore, there has been a minor revolution. I am not even sure whether French public opinion is really aware of these changes because this is a fairly technical matter, but what we are seeing is the emergence of new rights on the part of the opposition, and the development of a new doctrine. Even though it did not vote for the constitutional amendment, or for the change to the Assembly's rules, the opposition has become very attached to these new rights and is making use of them, as indeed it should.

I think I can safely say, on behalf of Bernard Accoyer, the President of France's National Assembly, that this is only the beginning and that further steps will have to be taken. That is also

the view of the man who initiated this reform, Edouard Balladur, a former Prime Minister, and chair of the commission tasked by the President of the Republic with examining the functioning of the institutions.

As you can see, then, the issue that we are discussing today is a highly topical one in the French Parliament.

**Sir Alan HASELHURST, Deputy Speaker of the House of Commons (United Kingdom)**

Lady Hayman said a few moments ago that this was the first of these Council of Europe conferences of presiding officers that she had attended. Sadly, for me, this will be my last and I just want to put on record how important I think these gatherings have been for improving co-operation, understanding and ultimately, building up that commitment to the ideals of democracy. So I shall greatly miss seeing all the friends that I have acquired over the years.

And I must also make a confession. This is my second visit to Cyprus and it is 37 years since my first. And on the strength of what I've seen so far and your hospitality, I've made a mental note to ensure that another 37 years doesn't elapse before I come again.

In the United Kingdom we firmly believe in the concept of opposition and our House of Commons chamber is very much designed to entrench that view. We sit on benches that confront one another and we believe in the idea of debate. We pay the leader of the opposition, we provide state money to support the opposition parties so that they have the resources to prepare the case that they wish to put. So yes, we very much subscribe to the sentiment in the background paper to today's discussion which suggests that a strong opposition can play an important part in creating, and I quote, "a situation where there is a shared commitment to the essentials of democracy by the majority and minority and a common desire to make their parliament work properly for the civil good."

I think I can say with confidence that the British House of Commons embodies that ambition. One of the main reasons why it works for us, I would argue, is in the strict approach that we take to the role of the Speaker. We have, if you like, taken the most puritanical view of the question of impartiality and he is protected in that way and in every sense that impartiality and independence is enhanced. We believe that that gives confidence to every party in the House of Commons, be it large or small, and to every member of parliament, however individual and independent, that they are going to get a fair hearing. And the three deputy speakers have to uphold that impartial tradition, so we do not speak in the House, we do not vote in the House. So that we can be seen as being fair at all times to everyone.

Now there are some countries where it is perfectly possible to step down from the role of Speaker and resume a more partisan position. We do not allow that to the Speaker of the House of Commons and it would not be possible, as in some countries, for a Deputy Speaker to preside over a debate impartially and then, after a two-hour spell in the chair, to step down into the body of the parliament and actually make a speech in the same debate. We would regard that as a conflict of interest which had to be avoided.

We recognise the role of the opposition in several ways. Twenty days in any parliamentary session will be allowed to the opposition to dictate the business of that day. The main opposition party will get 17 of those days, and the second largest opposition party will get the other three. The Speaker maintains an absolute balance in terms of the contribution to the debate so we will most usually take a Speaker from one side of the House and then go to the other side of the House. It is the Speaker who decides which amendments are to be heard. He obviously does that on the basis of objective advice from our clerks but he makes that judgment and his judgment cannot be called into question. Each day we start with one hour of questions to a particular department of state and every week, the Prime Minister also subjects himself to questions. And the leader of the opposition is guaranteed six questions in the half-hour session that takes place. So everyone has the chance on a regular basis to hold the government to account.

In our select committees, which regularly review different departmental business, the government may have a majority of members but now it is the practice that several of the chairmanships of those committees will go to opposition members. In some of the most important scrutiny committees of the House of Commons, like the Public Accounts Committee, which reviews government expenditure, the chairmanship is traditionally always given to a member of the leading opposition party.

There is also a need to take account of what I call “ad hoc opposition” because sometimes issues cause smaller groups of people who may belong to a larger party to have a distinctly different viewpoint, and we look to our Speaker to ensure that this is heard as well.

There can, of course, be abuse of such powers as the opposition have, through filibustering or attempts to upset the business of the House. The standing orders of the House of Commons provide protection to the government as much as to the opposition on the basis that if the government has a working majority in the House of Commons as a result of an election, then it too must be able to look to the Speaker for protection against irresponsible behaviour that is out of order from opposition parties or members. So fairness is what we seek to achieve.

We have, yes, absolutely, a commitment to the essentials of democracy but also there is a commitment, which has to be recognised, on the part of the main opposition party to win, to defeat the government of the day. And I would argue strongly, based on the experience I’ve had, of British politics and the privilege of membership of our House of Commons, that by having a Speaker who is recognisably independent it helps to ensure that the political struggle is conducted in an orderly manner and that power can transfer peaceably. Once again, as you may just have noticed, we have done it.

### **Mr Gianfranco FINI, President of the Camera dei Deputati (Italy)**

On this beautiful island which stands as a symbol of Europe’s history, and which demonstrates the interaction of entrenched identities which are of relevance to all of us here, member states and representatives of the Council of Europe, who have gathered to celebrate the 50<sup>th</sup> anniversary of the creation of the Republic of Cyprus. I think, too, we can build on the message of peace and the invitation to dialogue that was launched a few days ago by Pope Benedict XVI during his first papal visit to this island.

The topic of this first working session, the rights and responsibilities of the parliamentary opposition, touches directly on the very essence of democracy and is directly relevant to the responsibility of parliamentary speakers, as guarantors of codified rules that protect pluralism of opinions and underpin the policy-making process.

We all know that there are considerable differences between countries and that each speaker has his own role to play, but it is important, I think, to realise that those who stand at the head of a parliament have to guarantee pluralism and the ability of that body to take decisions. In my view, this is really the starting point for democracy. In order to be effective, any democracy needs to reconcile two crucial responsibilities: parliament has to offer the widest possible representation, i.e. pluralism, yet at the same time it also has to have the greatest possible decision-making capacity. History has taught us that democracies often die when they are not able to take decisions. If you have a representative democracy, you will get proper governance. And I am sure that we will learn more on this topic in the course of the conference. We have made a very good start in this respect.

Supranational bodies such as the Council of Europe are a fundamental part of our European architecture. The basic texts of the Council of Europe and the European Union have nevertheless been somewhat reticent when it comes to codifying a status for the opposition at supranational level. I think this reticence is understandable and can be seen as a sign of respect for individual

nations and their traditions, because those are part and parcel of what characterises our own individual identities. So I think the reluctance of the Council of Europe and the European Union to codify a supranational status for the opposition needs to be seen in this context. In cases where this subject is addressed by constitutional provisions, however briefly, most countries, including Italy, leave it to parliament to deal with the question of the rights and responsibilities of the opposition, in its rules of procedure.

In order to achieve this, three conditions must be met. The first condition is the acceptance by all the actors on the political stage of a common core of fundamental values. It is important to recognise that certain founding values of the international community are enshrined in our constitutions, but not necessarily all of them. It is important to have a balance between the minority and the majority in parliament.

Secondly, if the executive and the legislature are to function effectively over time, the majority must not restrict the rights of the opposition and at the same time, the opposition should not feel that it has the right to prevent the majority from operating properly. Sometimes, the opposition uses its speaking time to try to obstruct government decision-making. This is all very important in the context of what I am referring to. I repeat, the government must be able to take decisions in a timely manner.

This brings me to another point. Whenever there are elections, all the candidates must have the same rights if the parliament is to be genuinely representative of the country. In 1993 Italy adopted a new electoral code. As you know, our constitution dates from after the second world war. Up until 1994, the government in Italy had always been a coalition composed of lots of different parties reflecting the divisions created by the Cold War and the Berlin Wall. It could be argued that for many years, Italy was not a properly balanced democracy. Up until 1994, we always had one party which ruled more or less in coalition. In 1993 everything changed in Italy. We no longer had the East-West conflict and then in Italy for the first time we had an electoral law which meant that at long last, Italy could move towards a two-party system. At that juncture, all the political parties represented in parliament in 1993 had moved between being in opposition and being in power. From 1993 onwards, Italy became a democracy much more along the lines of other western European countries: a balanced democracy, with one party in power and then the next time round in opposition. A number of the more traditional parties disappeared, while others grew.

Just to wind up, now that we have much more of a first-past-the-post democracy, and I'm talking about the period from 1993 to the present day, all the political movements have alternated between opposition and government. There has been lengthy discussion about the status and rights of the opposition but we have not yet managed to really codify them. We would like the opposition to have a role based on the Westminster model or similar, but we need to be sure that we are making progress, we don't want to go backwards. So what we are doing is thinking very carefully about reinforcing the powers of the executive and the discussion which is taking place in Italy at the moment and which is breathing new life into Italian politics is essentially about the need to have a fundamental balance between parliament and the executive. Because if you want to have a proper democracy, there needs to be a balance between the two institutions, so that one is not more powerful than the other.

**Mr Vannino CHITI, Vice-President of the Senato della Repubblica (Italy)**

I would like to begin by thanking the Speaker of the House of Representatives of Cyprus for inviting me to Cyprus. I think we have to realise that here in Cyprus we do have a very sad division, something which is of importance not just for Cyprus, but for the whole of Europe. No state can be defined as democratic, as a Council of Europe resolution stated back in 1948, unless de jure and de facto it guarantees its citizens freedom of thought, assembly and expression and the right to form a political opposition. The topic of democracy is a central one, therefore. The Parliamentary Assembly of the Council of Europe has an important role to play in this respect. At its very last session, we approved a text that highlights the issue of democratic participation, on electoral

systems, on the role of women in politics, inspired to a large extent by the work done by the Council of Europe over the past 60 years.

Today's topic is connected to another process that is under way in Europe and beyond. The crisis has shown once again how the speed of decision-making has increased. At a time of globalisation, countries are forced to speed up various processes and the shortening of distances has meant that decisions have to be taken more quickly in order to be effective. And we have to make sure that this requirement does not lead us to undermine the principles of participation and democracy, the role of parliaments and the opposition. It is important that these principles be reinforced at every institutional level.

We have a responsibility to ensure that the will of the people is respected. In Italy, the rights of the opposition are firmly entrenched. It is essential to preserve pluralism in electoral choices and freedom of expression. In Italy we have two chambers which have the same functions and the same powers. Internal procedures provide certain guarantees.

We take care to ensure that the rights of the opposition are respected, whether as regards speaking time, question time, the chairmanship of certain committees, such as the parliamentary immunity committee or the bi-cameral committee on security or the committee on broadcasting. This worked very well when we had proportional representation but in the 1990s we moved to a first-past-the-post system, with the result that many of these guarantees risked being lost. As Mr Fini has just said, the necessary changes have not yet been made. There is a need, for example, to guarantee the right of the opposition to speak in the Assembly on certain bills, to put questions, to chair certain very important committees such as the budget committee or the scrutiny committees.

The representative of the French National Assembly mentioned ways in which they are moving in the right direction. There is also the issue, however, of the responsibilities of the opposition, which should do its utmost to improve the efficiency of parliament, and to make counter-proposals, but in a way that is constructive, and to avoid engaging in systematic obstruction, unless its own rights are being infringed or there is a threat to democracy. The majority and the opposition have to work together to ensure that democracy is respected. Those who are in government have a responsibility, which the opposition must take on board as well, to ensure that they work in parliament in such a way as to ensure that bills can be passed. Something else that needs to be considered here is the entry into force of the Treaty of Lisbon and what the concept of subsidiarity means for national parliaments.

The regions are of great importance in Italy. The Treaty of Lisbon has emphasised the role played by the Committee of the Regions in this context, focusing on subsidiarity and the way in which regional assemblies contribute to national law-making. It is crucial that local authorities be as close to citizens as possible, if only for the development of democratic life. In Italy, the role of the regions has been enhanced by the constitutional reform that was introduced in 2001.

To conclude, political pluralism has a key place in modern societies, not only within national and local assemblies but also at supranational level. Nor should we underestimate the importance of the media. For unless they are properly informed, citizens cannot play their full role, any more than the political parties can, whether they belong to the opposition or the majority.

#### **Mr José Vera JARDIM, Vice-President of the Assembleia da Republica (Portugal)**

Today is an important day for my country, Portugal. It was exactly 25 years ago today that we signed the treaty of accession to the European Economic Community, now the European Union, at the Jeronimos monastery. This is the place from where Portuguese seafarers set out to explore the world. Several years later, Portugal became a member of the Council of Europe and we had the "Carnation Revolution" in 1974.

The issue of the rights of the opposition is of crucial importance for any democracy. The quality of democracy depends on the opposition having a clearly defined, effective status. Portugal learnt this back in 1976, when a democratic state was established after 50 years of dictatorship.

The Council of Europe has called for recognition of the rights of the opposition, almost from the time it was founded.

The possibility of having political change depends to a large extent, if not wholly, upon the status of the opposition. Without an informed opposition, that is actively involved in political decision-making, the key principle of democracy, the changeover of political power between parties, will remain an empty statement that has no practical effect.

Today we are still seeking to improve and perfect the status of the opposition in parliament, which in the case of Portugal is a unicameral institution. In 2007 the ruling party, the Socialist Party, which had an absolute majority at the time, launched a comprehensive review of the rules governing the operation of our parliament, seeking to expand the rights of the opposition, whether as regards petitions, agenda setting, application of the proportionality rule or introducing the right to have debates with the Prime Minister at least twice a month, together with all the relevant ministers, etc.

I can safely say that the guiding principles of Parliamentary Assembly Resolution 1610 (2008) have all been incorporated into Portuguese law, greatly helping to improve the quality of political debate in our parliament.

The theme that we are discussing today also concerns the duties of the opposition. In Portugal, we have a situation that could be considered a case study in this respect. Because we are now in a position where we have a minority government, without a coalition, and in the absence of a parliamentary pact with other parties. In other words, the government is reliant on the support of a minority of MPs. At the beginning it was even said that we might have a "parliamentary government", as the majority of MPs belonged to the opposition, which was itself made up of parties both left-wing and right-wing. So it is a very unusual situation.

The difficulties facing our countries today call for measures that are not very popular and that require sacrifices from everyone. So it is not easy to secure a majority in parliament to approve such measures. The main opposition party, however, has so far supported these measures and indeed, a whole package of measures to tackle the economic crisis has just been adopted.

As I see it, this proves that our democracy is mature even though it is still relatively young. It also shows that enhancing the status of the opposition, as a key factor in the functioning of parliamentary democracy, produces positive results and creates an atmosphere of co-operation and consensus, especially in difficult times like these.

Our democracies are constantly having to face challenges but today even more so. With the current crisis and the measures needed to combat this crisis, there is a real risk of creating even greater disaffection among our citizens. All of us, governments and opposition parties alike, need to practise a responsible way of governing that reaffirms the virtues of political discussion and debate, while at the same time having regard to the general interest of our people.

### **Mr Robert WALTER, President of the European Security and Defence Assembly**

I am delighted to be back here in Cyprus. And I believe we may be making history here today, meeting under the joint presidency of a parliamentarian from the Greek Cypriot tradition and a Turkish parliamentarian. I hope, on this divided island, that we can build on this friendship in the coming days and weeks.

We are talking about the role of the opposition in parliament and this is something I can do from my own personal experience. Until only a few weeks ago, I had been an opposition parliamentarian

myself for some 13 years, in fact my entire parliamentary life. The irony of destiny has even led to me having someone stand against me in my own constituency as my strongest opponent in three consecutive elections, whose party, after the general election, now forms a coalition government with my own party. So after weeks of at times fierce battles for citizens' votes, we both now need to explain our government's policies to the constituents that we sought support from. At the same time, I continue to listen to those constituents' concerns and to bring them to the attention of the government. A parliamentarian who represents the governing party should never cease to be first and foremost the representative of his or her constituents.

In the field of foreign security and defence policy in which my assembly specialises, it is a particularly difficult one for parliamentarians in general and for opposition members in particular. It is a fact that in these policy areas, governments have a near-total monopoly of information and often go practically unchallenged as far as their activities are concerned. Governments control the embassies, the intelligence services and, of course, the military. Security and defence policy are special or reserved areas where the usual standards of scrutiny and transparency may be honoured more in the breach than in the observance. And this is true also of the European security and defence policy, where governments have deliberately excluded the European Parliament from taking on a greater role. Our governments meet up and discuss highly sensitive issues among themselves and often merely present parliaments with the results which we are then expected to take or leave.

Nevertheless even in the field of security and defence policy, the parliamentarians of the majority, who may have access to a good deal of information through informed channels, tend to have more than a little advantage over their opposition counterparts. As president of the Assembly, I have come across parliaments where the opposition is systematically prevented from acquiring any substantial knowledge of the national defence budget. In other countries, government maintain particular defence budgets, scrutiny of which is open only to a very few members.

For there to be equal access to information, most parliaments have developed tools that are available to all members, and all political groups. One of the most effective ways of involving opposition members is to have a system whereby the chairmanships of important committees are allocated to opposition parliamentarians who can then set the agenda and influence parliamentary proceedings. But in European security and defence, a policy field characterised by its intergovernmental nature, the existence of interparliamentary forums for exchanges of views, like my Assembly or the Parliamentary Assembly of the Council of Europe, offers both majority and opposition parliamentarians further opportunities for obtaining information or for cross-examining government representatives. The experience of our assembly has shown that opposition members especially tend to be interested in being appointed rapporteur for a particular topic. It is obvious why: by participating in international parliamentary work, parliamentarians from the opposition, as well as the majority, can compensate for the lack of transparency and paucity of information at the national level.

Today we have an important opportunity to remind ourselves of the useful part that interparliamentary forums can play in providing parliamentarians with the breadth of information and knowledge that they need for the effective discharge of their constitutional mandate to scrutinise the actions of their governments. And if I may, I would like to take this opportunity to encourage the speakers of the parliaments of the 27 EU Member States to step up their efforts to equip their parliamentarians with an interparliamentary instrument designed to help them effectively scrutinise European security and defence policy. To carry on the work that has been done by my own European Security and Defence Assembly. The Lisbon Treaty offers the framework for such an interparliamentary mechanism and specifically invites national parliaments to become more involved with the European Union.

My Assembly's activities will end within the next 12 months. This does allow time for a follow-up mechanism to be established, on the basis, of course, of a decision taken by the member states of the European Union. But it is important that the size of the delegations to any new structure should ensure opposition parties get a fair crack at the whip. Delegations should continue to reflect the

full spectrum of political views in each member state parliament, otherwise there is a risk that the interparliamentary structure will do no more than reflect the political perspectives of the member state governments. And also because Europe is wider than the European Union, the mechanism for interparliamentary scrutiny should involve parliamentarians from European NATO states that are not yet members of the European Union, as well as those from other interested European countries. Europe needs to deepen the European approach to security.

Because parliaments encompass both majority and opposition views, they can play a crucial role in paving the way for deeper mutual understanding and the development of common views on ways of dealing with the security challenges we all face.

### **M. Hovik ABRAHAMYAN, Speaker of the National Assembly (Armenia)**

The modern history of parliamentarianism in Armenia dates back to 1918 when Armenia regained the independence and sovereignty that it had lost centuries earlier and embarked on the long process of nation- and state-building.

The first parliament of the Republic of Armenia was indeed a democratic one, in terms of its approach, and that was quite unusual for those times, particularly as it went hand in hand with an adherence to human rights. Nowadays, the role and mission of the opposition are a significant factor in the development of parliamentarianism as well as in the formation of state structures and democracy building. The presence of an opposition in the Armenian parliament helps to foster a constructive atmosphere that is crucial for the functioning of the country's highest legislative body and creates checks and balances that are characteristic of the opposition in every country.

The importance and the mission of the opposition, however, depend not just on the level of development of a country and the democratisation of society, but also on the degree of vitality and credibility of the opposition as a political entity. It is well known that the basic role of the parliamentary opposition consists in submitting counter-proposals as an alternative to whatever the government is offering. In this respect, I believe it is very important that the opposition should behave constructively. Strong is the opposition that is guided in its activities by such a principle.

Interestingly, the behaviour and activities of the opposition are usually not regulated by laws or norms, but rather are a matter of political culture and ethical rules. The level of democracy in any given parliament is defined by the levers that are available to the opposition. A constructive and successful role in the management of the country is reserved for the parliamentary opposition, whose vigilance is considered to be the best guarantee of good governance.

Since being elected Speaker of the National Assembly of Armenia, I have become accustomed to calling on the opposition to use the parliamentary tribune as a platform for political debate. It is also my duty to ensure that the Armenian parliament demonstrates its commitment to democratic standards and the European system of values. The ongoing reforms and the laws adopted by the National Assembly of the Republic of Armenia since its accession to the Council of Europe are a vivid example of this commitment. In this context, I would like to mention in particular the amendments made to the Rules of Procedure of the National Assembly in line with the Council of Europe's Parliamentary Assembly Resolution 1601. These amendments not only clearly define the nature of the parliamentary opposition, but also provide additional guarantees for the activities of the opposition in the Armenian parliament. In particular, they introduce the right to question the government, to submit draft laws and to request debates under urgent procedure.

The amendments to the Rules of Procedure allow the political forces represented in parliament, including the opposition, to benefit from an equitable distribution of chairmanships and vice-chairmanships in the parliament's standing committees.

Giving the rights and duties of the opposition a firm basis in law is considered to be an important factor in the formation of the political map and in ensuring that the process of political debate is transmitted to the civil domain.

I strongly believe that the topics put forward at this conference and our discussions will go a long way towards reinforcing the value system adopted by the European family and that this in turn will benefit interparliamentary co-operation.

This conference should reflect our vision of democracy, but I believe that to have a better understanding of the real state of affairs, it would be interesting to hold another conference on the same issue, to which only representatives of the opposition would be invited. If it turns out that the findings of the two conferences coincide, that will show that we have achieved a necessary and sufficient level of democracy in our countries.

In conclusion, allow me to express the hope that today's conference will produce fruitful discussions.

### **Ms Jozefina TOPALLI, Speaker of the Kuvendi (Albania)**

As you know, Albania has been a member of the Council of Europe for 15 years. This institution, in fact, has been a great support to my country during the transition period and I would like to express my gratitude for the work and support that the Parliamentary Assembly of the Council of Europe continues to provide to my country.

Albania has undergone tremendous changes over the past 20 years. It is now a member of NATO, it has applied for membership of the EU and, just a few days ago, we completed the questionnaire which we have now submitted to the European Commission.

On 27 May this year, Commissioner Malström took the decision to propose to the Council and the European Parliament that the visa requirement for Albanian citizens be lifted. This request was ratified at the ministerial summit on 2 June in Sarajevo.

In order to achieve this, immense efforts were needed. The Albanian parliament and its committees worked hard, and a large number of laws leading to radical reforms have been passed.

The Parliament's agenda is currently centred around securing Albania's integration into Europe. That means reform at all levels and also determination and courage because introducing reforms is a real obstacle course.

In facing up to these challenges, parliament has become a leading institution.

On 28 June 2009 general elections were held in Albania. On that occasion, the Assembly pledged to play its part in ensuring that the elections were free and fair. It accepted every proposal put forward by the opposition concerning the electoral system and did everything in its power to provide full security for the opposition.

The new electoral code was passed in parliament by consensus, giving every commissioner and every observer a right of veto.

During the elections, brand new technology was used: digital lists of voters, digital biometric passports and ID cards. In addition, every vote was photographed, filmed and transmitted on line, thus ensuring total transparency in the vote counting process.

This process was monitored by 518 foreign observers. The OSCE-ODIHR report found that the election met most of its criteria and that there was no evidence at all of tampering. As a result, just a few months later, the European Council accepted Albania's application for EU candidate status and asked the European Commission for an opinion.

However, although the opposition said it accepted the result, it proceeded to boycott parliament. I would like to thank the Parliamentary Assembly's Presidential Committee, headed by Mr

Çavuşoğlu, for their help in resolving this absurd situation. I would like to reiterate my gratitude, Mr Çavuşoğlu.

Like all western Balkan countries, Albania is aiming to become an EU member in the near future. This is a heartfelt aspiration that has developed as a result of the dynamic transformation of our country in a very short period of time. Even in these times of global financial crisis, Albania has an economic growth rate of 3.5%.

There is a great amount of will in my country to move ahead with the process of reform. Two years ago in parliament important agreements were successfully struck between the majority and the opposition regarding constitutional changes and electoral reform. Sometimes, however, politicians engage in unprincipled behaviour, flouting the law and the constitution for their own personal ends.

After free and fair elections, the duty of the parties which the electorate has placed in opposition is to respect and honour the people's verdict, not to boycott parliament.

The role of the opposition is sacred. It should be objective, constructive and unifying when it comes to national interests. The duty of the opposition is not to propose nothing and to oppose everything, still less to engage in obstructionism or use stalling tactics. The opposition should dare to look beyond petty party interests and not become an instrument in the hands of one individual, or merely serve the interests of a few.

The behaviour and role of the opposition are essential factors when it comes to measuring the quality of democracy. If the opposition assumes the role of "spoiler", it directly undermines the progress of the country. When political parties resort to extraparliamentary means, endless boycotts or other crude methods, far from what political practice ought to be, they harm democracy. This kind of opposition leads to the denial of dialogue, denial of consensus and even denial of parliamentary opposition itself.

Speakers of parliaments have a very important mission and responsibility. Obviously, it is not an easy role. My colleagues who are here today are well aware of the many challenges that we parliamentary speakers have to face. Our duty is to respect the opposition, its space and role and any legitimate requests it may make. At the same time, however, we also have a duty to ensure respect for the law, the Constitution and the rule of law. Nobody is above the law and the rule of law, not even the opposition.

Once a political force has been elected through democratic elections, the opposition must undertake a constructive role and not resort to boycotts. Otherwise they will end up wasting time, with detrimental effects for everyone, including themselves. This is simply irresponsible. It can happen, however, just as sometimes we have to deal with things that are irrational or absurd. In a democracy, parties must learn to play their role and opposition should be a constant reminder to the majority to do the best it can.

In the course of my political career, I have spent 8 years in opposition. It was probably during that period that the opposition in Albania learnt how to operate as such. The opposition represents a moral authority. The citizens who voted for it look to it to meet their expectations. The mission of the opposition is to be loyal to the interests of the country and its citizens.

I would like to take this opportunity to thank you, dear colleagues, and the parliaments that you represent, for the trust you have shown in my country in ratifying the NATO protocol.

I am glad that we Albanians, who have been isolated for centuries, will be able, by the end of the year, to move around freely, without visas, like any EU citizens. Communication by e-mail, through Facebook or Twitter is a miracle of virtual communication. By the end of this year, Albania will be able to communicate physically and not just virtually. Therein lies the power of the freedom to which we are all committed.

**Mr Rudy SALLES, President of the Parliamentary Assembly of the Mediterranean**

It is an honour for me to be here today, as President of the Parliamentary Assembly of the Mediterranean (PAM), and I wish to thank the Parliamentary Assembly of the Council of Europe and Mr Marios Garoyian, President of the House of Representatives of Cyprus, for organising this conference of crucial importance for the development of parliamentary diplomacy in Europe.

As many of you know, our assembly, which was set up in 2006 in Amman, is an instrument for parliamentary diplomacy in the Mediterranean which came about as a result of a regional process within the Inter-Parliamentary Union (IPU) beginning in the late 1980s and known as the "Conference on Security and Co-operation in the Mediterranean".

Carrying on from the work done by my predecessor, Mr Abdelwahed Radi, Speaker of the Moroccan Parliament, who is also here today, I have sought, during my presidency, to build and strengthen parliamentary co-operation in the Mediterranean and to put PAM on the regional and world map. Our assembly, a horizontal forum for parliamentary co-operation dedicated exclusively to countries that border the Mediterranean, is now a fully-fledged player on the diplomatic stage, having been granted, in its capacity as an independent inter-state regional organisation, observer status with the UN General Assembly.

This achievement is down to the efforts of all our parliamentarians, who have worked hard, both individually and collectively, to implement our assembly's programme and vision, in order that the Mediterranean should act as a bridge between its shores rather than as a dividing line, for the purpose of ensuring peace, stability and prosperity among our citizens.

The Parliamentary Assembly of the Mediterranean deals with issues of strategic importance for our region, such as combating terrorism and organised crime, the regional aspects of the Middle East peace process and, at the request of the UN, other sensitive geopolitical issues, such as the Balkans or the Cyprus question. Our efforts are also directed at promoting the necessary process of regional socio-economic integration. And I am very happy to announce that exactly two weeks ago in Lisbon, PAM launched its Panel for External Trade and Investments in the Mediterranean, with over 50 delegates, parliamentarians or representatives of national agencies responsible for promoting development external trade and investment, chambers of commerce, banks and financial institutions, as well as associations of entrepreneurs and employees, in order to work together to tackle the region's economic challenges. Among other things, it is planned to set up a bank for the development of the Mediterranean region and to establish a free-trade zone.

Our assembly is also interested in climate change and is working to rationalise the use of limited natural resources, to better protect the environment, for example by addressing the thorny issue of dumping toxic waste at sea, and to promote sustainable energy management ensuring security of supply as well as of the production and distribution processes, in order to increase the use of renewable energies. We also deal with issues relating to migration, including the very worrying problem of trafficking in human beings. Our assembly has been actively promoting intercultural and inter-faith dialogue, as a necessary instrument for mutual understanding and peaceful cohabitation between peoples in the Mediterranean region, and is very involved in human rights issues, including the status and condition of women.

Human rights are closely related to the issue of democracy. Although an interparliamentary assembly, and so quite different from the parliaments over which most of you preside, the Parliamentary Assembly of the Mediterranean has a keen interest in the subject of this session, namely the rights and responsibilities of the opposition in a parliament.

In order that the wide range of expectations of the people we represent should be fully taken into account, PAM endeavours to ensure that the opposition is properly represented in the national delegations, and to afford minorities ample opportunities, in its work, to express their views and opinions. The arrangements put in place by PAM in order to meet these goals are original and eminently suited to the particular needs of interparliamentary assemblies.

Although individual member parliaments decide how the members of their national delegations to PAM are selected, they are strongly advised by our statutes to have members from different ideological and political backgrounds, and this recommendation is largely followed in practice. Such diversity is essential owing to the highly political nature of our assembly. Another concern of national delegations, albeit one that is not mentioned in our statutes, is to ensure that national minorities are represented. The PAM statutes also require that both sexes be represented in the national delegations and on the Assembly's Bureau. The rules governing the composition of the national delegations to PAM should therefore ensure that national parliaments are represented in all their diversity.

One of the strengths of our assembly lies in its egalitarian nature: all our member parliaments are on an entirely equal footing, including as regards the number of members and votes assigned to each delegation. Similarly, in our Bureau, the Assembly's executive body, northern and southern countries have the same number of seats.

The theme of this session is of the utmost importance because it is a condition for the proper functioning of democracy. This is something that is true for national parliaments and interparliamentary assemblies alike.

### **Mr David BAKRADZE, Speaker of Parliament (Georgia)**

It is a pleasure and an honour to be here, standing on this podium, and to be addressing such a distinguished audience. I do not intend to speak in general terms about the importance of opposition for normal, healthy parliamentary life, we know about that already. Let me tell you instead about some changes that the Georgian Parliament has introduced over the past two years and which, I believe, significantly improve and strengthen the position of the opposition both within parliament and in political life in general.

Let's start with the role of the opposition in setting the agenda. The opposition has the right to set the agenda for plenary sessions once a month. It can table a discussion on any draft law on the last Friday of the month. With regard to the right to initiate legislation, even a single opposition member can initiate legislation in the Georgian Parliament. Also, once a month, during plenary sittings, the opposition has the opportunity to question ministers. Minority groups can also put questions to the government during faction sessions, on a weekly basis.

The parliamentary opposition has been granted the right, as a result of recent amendments, to appoint the chairs of ad hoc investigative committees. The composition of these committees must be balanced, furthermore, so that the majority does not dominate the decision-making process.

The opposition has been given the right to nominate candidates for the three Deputy Speaker posts in the parliament, and the procedures for establishing a faction in the parliament have been simplified. Under the Georgian law, any constitutional amendments are subject to a month-long period of public debate and this process is conducted and supervised by a parliamentary committee. As a result of the recent amendments, opposition MPs now make up the majority on this committee, so the opposition has a decisive say when it comes to any constitutional amendment. As regards civilian oversight of defence and security, recent legislation has increased the number of opposition MPs in the so-called "Trust Group", the parliamentary body that oversees defence procurements and has access to all defence-related information, including classified documents and use of state funds. Generally speaking, of course, the budget of the Defence Minister is transparent but in Georgia, as in, I believe, in most other European countries, there is some sensitive, defence-related information which is contained in classified documents so there is a special structure in parliament which has unlimited access to such material.

The opposition is represented in all permanent parliamentary delegations. There are also quotas in all the parliamentary "friendship" groups. This helps to ensure full participation by the opposition in parliamentary business. A number of other measures have been taken, which go beyond the

parliamentary framework, but which I believe are important for strengthening the opposition as an institution and empowering the opposition to operate freely in the country.

Let me start by mentioning the opposition's participation in the National Security Council. Since August 2009, the National Security Council has been meeting in a so-called enlarged format, enabling opposition leaders to participate in its work and encouraging the opposition to be part of any decisions concerning Georgia's security and foreign policy. This is a very important initiative, one which gives different political leaders, including opposition leaders, the opportunity to contribute to security decisions which are of vital national importance.

Strengthening the role of the opposition in oversight of the judiciary is a very sensitive issue, and one that is still receiving attention as part of the reform process. One member of the High Council of the Judiciary, the administrative body that manages the judicial system, is now elected from the ranks of opposition MPs. This ensures transparency in the work of the Council and allows the opposition to take part in oversight of the judiciary.

Moving on to the media, the composition of the Board of Georgian Public Broadcasting was recently changed. 7 out of its 15 members are now nominated by the opposition, 7 by the majority and 1 by civil society, thereby ensuring impartiality and balance in the Board's decisions. We have also made changes to the law so as to ensure regular broadcasting of live political talk shows, with the participation of all the major political parties. Also as a result of recent legislative changes, an opposition member has been appointed to Georgia's national communication commission, allowing the opposition to become directly involved in decision-making relating to the media and so making for greater transparency.

In Georgia, too, all political parties which participate in the electoral process, including the opposition parties, are entitled to free advertising during the pre-election period. That is the law, and all TV channels, public and private, are obliged by law to grant political parties free airtime during the election campaign. This was done in order to give smaller political parties the opportunity to be represented in the Georgian media and to present their programme to the public. Recently too, a special parliamentary TV channel modelled on BBC Parliament was set up to provide live coverage of all important political events. Political parties have direct access to the channel. To reach out to the public, the channel provides daily edited and live coverage of the opposition parties, of which there are 16 at present. The same channel also broadcasts the plenary sessions of the parliament, and the sittings and sessions of the parliamentary committees, so the work of our parliament is very transparent.

Georgia is one of the few countries where political parties receive state funds to ensure the proper functioning of political parties. This is particularly important for the smaller opposition parties. The law was changed recently, with the result that the bigger parties now receive less money, while the smaller opposition parties receive disproportionately large amounts of funding. To give you some actual figures, the current ruling party which won 60% of the votes in the recent parliamentary elections, receives only 40% of the money, while the opposition parties, which together won only 40% of the votes, receive 60% of the money. So there is positive discrimination in favour of the opposition.

The other two points I would like to make concern reforms which are of great importance for Georgia.

Firstly, about a year and a half ago, we set up a special working group in which we invited members of all interested political parties, including the opposition, to participate. As a result, we had 16 political parties sitting around the same table, discussing and debating Georgia's electoral legislation for more than a year. I don't know how it happens in your countries, but for Georgia, having 16 different parties constructively discussing electoral issues for over 12 months was something unique. This was a very positive experience for our political system and as a result of this very open and inclusive process, the group came up with specific proposals for improving

Georgia's electoral legislation. These proposals were recently approved by the Venice Commission.

To mention just two of the ways in which the improvements have benefited the opposition, the opposition now has the right to appoint the secretaries of all electoral district committees. This is very important because the secretary of the electoral district committee is the person who has all the documents. From now on, therefore, the opposition will have a full picture of the situation, and considerable influence on electoral precinct commissions. The second point concerns the election of the chairperson of the Central Electoral Commission: the right to nominate and elect this chairperson has been granted to the opposition. Only if the opposition parties cannot agree on the nomination of the new chairperson of the commission will the matter be referred to parliament, to be decided by the majority. In most cases, however, the decision lies with the opposition.

I believe that these and other improvements contributed to the success of the local elections on 30 May. These elections were widely assessed by international observers as free and fair and as a clear sign of the progress made towards the democratisation of Georgia.

The second reform is constitutional reform. Again, there has been much debate in Georgia over the division of power, whether our system of checks and balances is fair, or whether there has been a shift towards a stronger Presidency. Last year we set up a special committee on constitutional reform, in which we invited all opposition MPs as well as NGOs, civil society representatives and lawyers to take part. This committee worked for about 9 months and they have just produced their first draft of the new Georgian constitution. This draft is now before the Venice Commission and we are awaiting their opinion but I can tell you already that this document envisages a significant strengthening of parliament and a significant strengthening of the role of the opposition. From the current presidential system, we expect to move soon to a mixed system where parliament is much more powerful and the President has more of a representative function, as is the case in most European states.

This is a very important reform and the new Constitution has yet to be passed by parliament.

Ladies and gentlemen, this morning, the President of Cyprus and the President of the Parliamentary Assembly spoke of the situation on this beautiful island. I should point out that this is not the only country that is divided. There is another country that is divided by barbed wire and occupation by foreign troops and that is my native Georgia. You all know about the security situation in Georgia but let me underline that we never used the security situation as a pretext for slowing down democratic reforms. The lesson learnt from the Russian invasion of August 2008 is that the best defence for a small country like Georgia is to be democratic and to belong to the family of democracies, to belong to the system of European values, to belong to the family of European and Euro-Atlantic institutions.

The security situation in my country was never used as a pretext to slow down the reforms. If anything, it was one of the key factors in our decision to speed up Georgia's democratic transformation and all these changes and amendments that I have been describing were adopted after August 2008, i.e. in the last two years. So despite problems, despite shortcomings, and despite the fact that Georgia is a transition state, which still has a long way to go before it becomes a mature and established democracy, I am confident that Georgia is moving in the right direction, that as a country, we have a very open society and a very open and vibrant political system.

I am confident that with your support, we will be able to become a fully-fledged member of the European democratic family.

**Mr Per WESTERBERG, Speaker of the Riksdagen (Sweden)**

Let me first draw your attention to a historical fact, that reflects the importance of recognising the opposition and the positive impact it has had in the long run for the democratic development of my native Sweden.

The first meeting of Sweden's Riksdagen dates back to 1453 when the parliament, for the first time, had representatives from all sections of society: poor and rich, peasants and noblemen, from all parts of the kingdom. Democracy is a dynamic process. For every nation needs to constantly work to protect and promote democracy and human rights, in every generation.

You are undoubtedly aware that the issue of the rights and responsibilities of the opposition in parliament is something that has been addressed over the years by parliaments, academics and commentators. The purpose has always been to consider the relationship between the governing and opposition parties, in order to promote democratic ethics and to emphasise the need to protect the opposition's rights in a democratic state. Of course, the speaker has a special duty to look after these rights and democratic functions of a parliament, including fair working conditions for the opposition. The differences in the constitutional configurations of the member states show us that there is more work to be done as regards the legal framework that enables opposition parties to have a viable and effective role in parliament. Furthermore, when considering the rights of the parliamentary opposition, we must not forget the responsibility that these legal rights imply. The parliamentary opposition's role is not just to offer destructive criticism in times of financial crisis or disaster, in order to undermine the majority in parliament. Nor should the majority ignore unjustified infringements of the rights of the opposition.

It is essential for the success of parliamentary democracy to support the opposition, so that it can perform its task effectively, and to provide it with fair resources. The key requirement in this context is credibility. The opposition should give attention to political developments and act in a responsible, respectful and united fashion, and its policies must be seen as being relevant to people's day-to-day lives. In short, they must present a trustworthy alternative to the government of the day at all times.

The financial crisis has had an impact on peoples and nations worldwide. Nevertheless, peace, democracy and economic development should not be left behind in times of global economic difficulties. Our responsibility, as parliamentarians, to keep these issues high on the international political agenda is more important than ever. It is at times of crisis that people's ability to co-operate and to make use of human resources is put to the test.

It is particularly important that members of national parliaments and delegations to the Council of Europe participate in different international meetings, but every elected representative also has a responsibility to devote time to national political dialogue.

Last but not least, I would like to urge all countries to promote and protect respect for human rights and fundamental freedoms and to give them the highest possible priority. I would also like to thank the Council of Europe for the excellent work undertaken in this field.

**Mr Jiri LISKA, Deputy Speaker of the Senate (Czech Republic)**

How we see parliamentary opposition and its role in a democratic system is undoubtedly influenced by the experiences of the countries we come from. Established democracies based on the rotation of two parties or two blocs will have one view, systems with small parties will have another view. In the Czech Republic, the Communist Party played a leading role for many years. The result was that a standard party system did not exist and political opposition was out of the question. Since then, parts of eastern and central Europe have had a kind of aversion to the idea of a clear victory by any one party, and to the system of two strong parties in general.

There are advantages to this system, but also significant drawbacks. Governments in the Czech Republic are usually coalitions. This means that they can push through only the lowest common denominator of the programmes proposed by the coalition partners. In addition, such governments are usually unstable because of political differences. This has an impact on the public, which becomes dissatisfied because the promises made are not kept. It also affects the relationship

between politicians and the public, with politicians increasingly failing to keep their promises and tending to blame their coalition partners when the election programme is not fulfilled.

Having large numbers of political actors without a strong political direction also changes the role of the parliamentary opposition. The opposition ceases to be a countervailing political force, tabling alternative bills or raising new issues, so that it can win in the next election. It is first and foremost a rival, permanently attacking the coalition and seeking its disintegration. Clearly this is not the best approach to the role of the opposition, for three reasons. First, such a state of affairs strengthens the position of minor parliamentary parties. Second, it exacerbates tension between the opposition and the main governing parties who in their never-ending struggle to save or bring down the government are inclined to forget that, after the next election, their roles may switch. And lastly, as I have already mentioned, it encourages politicians to make irresponsible promises, knowing that will never acquire the necessary strength to implement their programmes. Then they justify themselves, citing the need to make compromises within the coalition.

What members of opposition and governing parties should have in common is a sense of responsibility for the long-term future of their country and society, in areas such as security and foreign policy, and in reform of the social and health care system, which is essential almost everywhere today.

This is important in countries where coalition and opposition parties are evenly balanced, as has been the case in recent years in the Czech Republic, where the situation I described has prevented us from pushing through truly fundamental changes. This area should be free of politicking, with efforts being focused instead on reaching agreements and even compromises.

Even voters expect and want politics based on consensus. They don't want the opposition to be merely a harsh critic. They want it to take positive steps, to perform its critical opposition role and to prepare itself for the possibility that it might one day be called upon to take over the reins of government. At the same time, however, members of the government must be aware that the next elections could see them back on the opposition benches. And this knowledge should inform the way in which they treat the opposition.

### **Ms Ene ERGMA, Speaker of the Riigikogu (Estonia)**

In a parliamentary democracy, it is not enough to simply have rules. One must also follow those rules on a daily basis, including the traditions that go with them. For example, the opposition should have access at the earliest possible stage to discussions and information related to decision-making. It must have the opportunity to participate in deliberations, and the assurance that issues raised by the opposition will be placed on the agenda for public discussion.

It is also important that debates held in plenary be recorded, and made available to society as a whole.

The opposition should have certain minimum rights, and be able to exercise them. Such rights must not be excessive, however, because the government must have the opportunity to rule. The key issue at this point is finding the right balance.

Fairness demands balance, in other words a sense of responsibility on the part of the opposition. One of the most effective ways in which the opposition can draw attention to itself in parliament is obstruction. In extreme cases, this can be the right thing to do. But how does one ensure that obstruction is used only as a measure of last resort, once all other avenues have been exhausted? Very likely this can never be guaranteed, because the way in which the opposition and the majority understand the notion of last resort is too different.

What is clear is that if a coalition behaves in a way that is arrogant, there is a risk that the opposition will react too radically.

We must look for answers to the following questions: is it more important to ensure the ability of the majority to make decisions (governance capacity) or to ensure that the decisions taken remain in force after a changeover of power (governance stability)? Is the primary task of the opposition to be a thorn in the side of the ruling party, or a partner ever ready for dialogue?

In my opinion, it should be both. The key words here are: consideration for the opposition, constructive opposition, co-operation and dialogue. In other words, it is important to move towards a form of democracy based on participation and consensus.

Sadly, there is no denying that recent years have seen the rise of populist politics. Political parties which employ these methods have done well in recent elections. What is happening in the media, with the growth of tabloids, supports this trend. Thus, good governance will soon cease to attract any coverage at all and media space will be given over to scandals, conflicts and entertainment. This is fertile ground for populism and it is exploited by political forces. Such behaviour, of course, is not confined to the opposition. But it is much easier to indulge in it if one does not bear the burden of government.

Is there a way out of this situation? How can we minimise estrangement? Particularly in a situation where the majority of parliaments are open and communicate with the public far more than they did 10 or 20 years ago. Certainly we must expand the direct information channels provided by parliaments. Certainly we must communicate tirelessly and explain our position. And certainly we must believe in the wisdom of the people.

In conclusion, in order to really comprehend the role of the opposition and coalitions today and in the future, one must have personal experience of being in battle on both sides of the frontline.

Opposition parties and ruling parties have a common responsibility for society and citizens.

### **Chair**

We have to interrupt the list of speakers now. We will resume this afternoon, at 3.30 pm.

*(The meeting rose at 1.10 pm)*

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The sitting opened at 3.35 pm with **Mr Marios Garoyian**, President of the House of Representatives of the Republic of Cyprus, in the chair.

## **Chair**

We shall continue hearing the registered speakers on theme 1, "Rights and responsibilities of the opposition in a parliament".

## **Mr Bogdan BORUSEWICZ, President of the Senate (Poland)**

Allow me to begin by thanking our hosts for their excellent organisation of this Conference and their warm welcome. This event constitutes a further step forward towards European unity, a process which began in 1949 with the setting up of the Council of Europe.

The Polish Senate was restored in 1989, and mandated to review the legislation passed by the Sejm, that is to say the lower House of Parliament. It was assumed that it would be in opposition to the lower chamber, where the communist authorities had secured a majority for themselves and their satellites. Since its "resurrection", however, the Polish Senate has not played the role originally attributed to it and subsequently enshrined in the Constitution. During its first term of office, from 1989 to 1991, instead of being part of the opposition, the Senate supported the ruling camp as communist rule collapsed. It therefore controlled the legislation of the Sejm, and, moreover, became an important legislator. A large group of law professors sat in the Senate. It was the Senate that originated many extant laws, such as on local government: no wonder that 99% of the Senate supported Tadeusz Mazowiecki's Government.

The fact that in subsequent terms of office the Senate has not played the role of effective political review of legislation adopted by the lower house is the result of the way in which its members are elected. The elections to the Senate take place at the same time as those to the lower house, and the candidates to both houses are nominated by the same political parties. Consequently, the majority and minority in both chambers more or less coincide. In the 1990s, some thought that the law on the electoral system would bring apolitical people and influential representatives of the local and regional authorities into the Senate. These hopes proved vain. The only positive effect has been that voters' preferences are better expressed in the Senate than in the Sejm.

The differences in the role played by the opposition in the two chambers of the Polish Parliament are mainly due to the fact that the lower chamber exercises a constitutional role of supervising the Government (Council of Ministers), which the Senate does not. For instance, the Sejm can set up commissions of inquiry whereas the Senate cannot. Furthermore, all members of the Sejm have the right to introduce legislation, whereas the Senate has a collective right to do so rather than an individual one for each member.

The type of opposition in each country is largely bound up with its party system. Unlike the traditional bipartisan system, where a party with an absolute majority does not have to seek opposition support, in a multi-party system, which always leads to the political fragmentation of Parliament, co-operation among parties with similar programmes is often a precondition for shaping a parliamentary majority and a coalition government. A governmental coalition with only an insignificant majority is often forced to compromise with opposition groups in Parliament. The model of co-operation between the governmental majority and the parliamentary opposition based on conciliation corresponds very closely to the situation of the parliamentary opposition in Poland.

To come back to the chamber over which I preside, the Senate implements the fundamental procedural rules advocated by the Parliamentary Assembly of the Council of Europe. Opposition rights in the Senate are formally guaranteed, primarily in its Rules of Procedure but also via a long-standing practice of self-restricting the majority in the House. There is no written rule that the heads of Senate committees must be chosen from among the opposition. But in fact at the present time, 6 of the 16 standing committees, ie 37% of the total are chaired by members of the Law and

Justice opposition group, to which 38% of the Senators belong. Delegations to international parliamentary assemblies and missions abroad are formed in a similar fashion.

The role of the opposition has been, and will continue to be, of vital importance for the future of Europe. Broadly speaking, the activities of the parliamentary opposition, and consequently of national parliaments, provide us with four principal benefits:

improved quality of governance;  
 increased legitimacy of the democratic system;  
 enabling Parliament to channel social dissatisfaction and conflicts;  
 preparation by the opposition of its possible return to power after the elections.

Like the Parliamentary Assembly of the Council of Europe, Poland attaches great importance to the rights of the opposition. At the same time, we do bear in mind that there are countries in which the only possible form of opposition is non-parliamentary. Unfortunately, there are countries in Europe and worldwide where, if you are in opposition, you have no chance of being elected to Parliament. In any case, our role is to promote the practice of including the non-parliamentary opposition in parliamentary debates and decisions. (*Applause*)

### **Mr Luka BEBIĆ, President of the Sabor (Croatia)**

I would first of all like to remind you that the original meaning of the word “opposition” is juxtaposition or contraposition. In logic, opposition is the juxtaposition of two points of view, while in astronomy, it means the physical position of a heavenly body in relation to the Earth.

In the narrow political sense, opposition means organised opposition to the political authorities by political parties which have been set up with a view to securing the support of the electorate and seizing power. In a multi-party democracy, the opposition breaks down into the parliamentary and non-parliamentary opposition. The invention of the parliamentary opposition was undoubtedly a great event in the history of the human struggle for freedom. Institutionalisation of parliamentary opposition is one of the most mature products of our political culture. The existence today of a free, active and respectable opposition is considered as a firm, indisputable criterion of genuine democracy. In a traditional representative democracy, the opposition represents not only a legitimate political force but also a major component of the State apparatus.

The principle of political opposition is one of the most important basic components of liberal democracy. The primary role of political opposition is to ensure the proper functioning of liberal democracy. After all, this has been acknowledged by a wide range of political elites and citizens in all mature democracies. The proper functioning of the constitutional democratic system is based on the right of choice. In such a system, the citizens must be constantly reminded that there is an alternative to the current political grouping. In many democratic systems, the opposition is often described as a minority party or parties which do not hold executive power.

Parliament, however, is an institution which represents society in all the diversity of its attitudes and opinions, and a body shaping the whole political process. Parliament must allow all sections of society, the entire nation, to express opinions and to participate in the political process in a climate of pluralism and tolerance.

What is the duty of the opposition today? It must no longer confine itself to opposing everything, but rather should help express the opinion of a significant proportion of the population whose interests it must protect. We might say that the duty of the opposition is just the opposite of what was once thought, which means that today it must be a constructive participant in the political decision-making process.

The opposition also serves as a kind of safety valve, reducing the tensions which can arise from citizens' complaints and grievances about specific problems in society. If there was no opposition

there would be no voice to express dissatisfaction. This role helps reinforce public confidence in democracy and persuade people that their concerns are well expressed and their interests properly protected.

In Parliament, genuine participation by the opposition in the legislative function depends on its presence in the executive bodies – the presidency, secretariat, and so on – and the working bodies: committees, delegations, commissions, etc. In line with what I have just said, the composition of the main governing body of Parliament is particularly important. It is necessary to ensure representation of all political options in Parliament, for instance making sure there are enough vice-presidential seats for opposition representatives.

The opposition can base its critique on an alternative platform, levelling convincing criticisms at the ruling parties or coalitions while also presenting different political options.

Accordingly, the opposition should highlight those aspects of governmental policy which it deems contrary to the national interest. The opposition must expose the other side of the coin, the aspects which the Government tries to play down or hide from the public gaze.

If the Government and opposition are to be “juxtaposed” in accordance with the rules, both parties must agree on the position of the State. These general conditions of the parliamentary game between the Government and the opposition can only be fulfilled if there is some degree of confidence in Parliament as a political decision-making forum. In this case, the opposition will constitute a credible alternative to the ruling majority.

In Croatia we have achieved maximum political consensus with the opposition on the accession procedures to NATO and the European Union. For instance, the Chairperson of the national Monitoring Commission for the EU accession procedure was selected from the opposition benches. It is extremely important for the opposition to be able to express its opinions and attitudes. It must obviously have access to the media in order to get its opinions on current affairs across to the general public. Furthermore, the opposition must be entitled to have its own media in order to prevent interference with the expression of its views. And it must work together with the Government in dealing with situations of national disasters or large-scale accidents. In such cases, the opposition is required to defend the country’s sovereignty, unity and integrity. In a democratic system, Parliament must be a place not of compromise but of public debate, enabling representatives to reach optimum solutions for State and society.

This is the kind of parliament we need in order to take up the major challenges facing us today, such as the economic and financial crisis, climate change, dwindling water and energy resources, and so on.

By way of conclusion, I might say that a parliamentary or non-parliamentary opposition which is able to play its proper role is an essential feature of liberal western democracies and democratic systems in general. This kind of system needs the opposition to be able to freely express its views and act as a counterbalance to the other party in the democratic equation. By providing an alternative to the ruling party, such an active opposition promotes the prosperity of the country and society and helps prevent abuse of power and eliminate the risks of sliding into dictatorship or a similar system. (*Applause*)

### **Mr Jean BIZET, Chair of the Senate Committee on European Affairs (France)**

In France, as Mr Le Fur reminded us this morning, we adopted a major reform of the Constitution in 2008. The two main aims of this reform were to increase the powers of Parliament and reinforce opposition rights.

These two aspects are clearly connected. It is mainly in Parliament that the opposition can, and should, play a role. By expanding the role of Parliament we are simultaneously reinforcing the role

of the opposition. But obviously the main point is that the opposition must be granted specific guarantees and rights in the functioning of Parliament.

The principle of such specific rights is enshrined in our Constitution. This means that France is now among those countries which mention the opposition in the actual texts of their Constitutions.

This new Article of the Constitution was difficult to draft because defining the opposition is no easy matter. Some groups have refused to place themselves on one side or the other of the dual system of majority and opposition. The text finally adopted grants specific rights not only to "opposition groups" but also to "minority groups". Each group must stipulate whether it deems itself an "opposition group" or "minority group".

What specific rights are granted to these groups? The rights are defined by the Rules of Procedure of each parliamentary chamber.

In the case of the Senate, these specific rights comprise several aspects:  
first of all, the various Senate bodies must have a pluralist membership in order to ensure that all groups are represented;  
secondly, every year, any parliamentary group can request the setting up of a commission of inquiry on a subject of its choice; the commission is set up *ex officio* unless there is a constitutional or legal obstacle to such action;  
thirdly, where commissions of inquiry are concerned, the functions of chairperson and rapporteur are apportioned between the majority and the opposition;  
fourthly, one day per month is set aside for initiatives from minority or opposition groups, which can request the inclusion on the Senate agenda of any Bills which they have prepared.

The constitutional reform was recent; it has taken some time to adapt the two assemblies' Rules of Procedures, and even more time will be needed for the new rules to become part of everyday parliamentary life.

However, we can already see that the new rights of the opposition relating to scrutiny are easier to implement than those concerning legislation.

Majority and opposition parliamentarians are becoming more and more accustomed to conducting the work of parliamentary scrutiny together, and in fact they notice that when it is conducted in this manner it has more weight and credibility.

The situation is different where legislation is concerned. Opposition groups tend to present proposals which reflect their own ideas, but this makes it inevitable that these proposals will ultimately be rejected in plenary.

Under these circumstances, should the majority simply comply and hold a committee discussion followed by a plenary debate on the technical and procedural aspects of the Bill, knowing the whole time that it will be voting against the whole proposal?

Would it not be more logical to simply hold a debate on the overall philosophy of the proposed legislation and then move on to the overall voting without going into detail?

The opposition obviously want the debate to go on in its entirety without disregarding any detail of the provisions put forward. But surely this makes the debate completely artificial?

It is very difficult to convince majority Senators of the need to attend the assembly chamber for hours on end to consider details of provisions which they have decided subsequently to reject out of hand.

Nonetheless, we can still hope that the specific rights granted to minority and opposition groups will gradually lead to a more constructive relationship between the majority and the opposition. And if I

may say so, the financial and economic crisis should enable both sides to adopt a more constructive attitude.

This would be in the interests of parliamentary democracy, and above all of the citizens which it represents. (*Applause*)

### **Ms Anne BRASSEUR, Chamber of Deputies (Luxembourg)**

I would first of all like to apologise for the absence of the Speaker of the Chamber of Deputies, Mr Laurent Mosar, who has been detained by parliamentary obligations in Luxembourg. I personally am a member of the opposition in the Luxembourg Parliament. The reason why I am here is that the majority trusts opposition members, or at least partially – let's not overdo it! In any case they sent me here.

I shall begin with some general observations before going on to the situation of the opposition in Luxembourg.

The subject we are addressing today is the rights and duties of the opposition. I would just like to add the concept of responsibility, because the opposition is required not only to supervise the executive but also to act responsibly. Responsibility means that it must not just vote against majority bills, but must also put forward practical proposals to improve them and take initiatives at the parliamentary level.

The fact which should be constantly borne in mind is that any parliamentary action must be geared to finding solutions in the public interest. This applies equally to members of the majority and the opposition. In taking parliamentary action, we must be careful never to think solely in the short term. In our day and age, unfortunately, short-term thinking seems to be taking over from the medium- and long-term vision.

The opposition must also show responsibility by supporting the government's less popular measures, and for this it requires courage. The opposition must never lapse into opportunism and populism. It must avoid blocking the legislative process with abusive procedures – which we discussed this morning.

The role of the opposition is therefore much more than just providing an alternative to the majority.

After these general considerations, I would like to mention a number of points concerning the opposition in the Luxembourg Parliament.

Our Constitution does not explicitly mention the opposition, as is the case, for instance, in France. Nevertheless, the opposition has a number of specific rights, such as membership of the Bureau of the Chamber, and the right to submit parliament bills and chair major parliamentary committees such as the Committee on Petitions, the Committee on Rules of Procedure, the Committee supervising intelligence services and the Committee supervising budgetary implementation, which I myself chair. This is no exhaustive list, however, because the opposition has many other rights and prerogatives.

Nevertheless, we realise that despite all the rights granted to the opposition, if the majority wants to steamroller things through, and I think this applies everywhere, it can and will do so. This is also a matter of majority power.

Mr Chairman, let me now speak to the Presidents and Speakers of national parliaments about another matter: I am also a member of the Parliamentary Assembly of the Council of Europe, whose Liberal and Democrat Group I chair. We often notice that substitute members of this Assembly are not allowed to sit in the latter if the full member is present. This is a problem in terms of the functioning of the Parliamentary Assembly. The substitutes often belong to the

opposition in their national parliaments, but they are full members of the Parliamentary Assembly committees, and so they must be present if these committees are to function properly. I would therefore take the liberty of appealing to the Presidents of national parliaments to ensure that their representatives can sit in the Parliamentary Assembly, whether they are full or substitute members.

In conclusion, I would like to come back to the speech given this morning by the President of the Parliamentary Assembly of the Council of Europe. Mr Çavuşoğlu referred to Heaven and Earth. We might wonder whether the majority is in Heaven and the opposition on Earth. I would not be so sure. As representatives of the peoples we all have the same responsibility, namely to help develop our societies so as to enable every citizen to achieve self-fulfilment. I would say that it is better to have a chance of leading a fulfilling life on Earth than hoping to be able to do so one day in Heaven!

One last word to our hosts: Mr President, you chose a wonderful place to hold this Conference, a veritable Heaven on Earth. Thank you. (*Applause*)

### **Mr Dag Terje ANDERSEN, President of the Storting (Norway)**

Every country has a government, only democracies have an opposition – as stated in the explanatory memorandum to Resolution 1601 adopted by the Parliamentary Assembly.

A democracy is fragile - it needs to develop, to be protected. The opposition's rights must be safeguarded under all circumstances. The Council of Europe plays an extremely important role in strengthening democracy throughout Europe by promoting the rights and responsibilities of parliamentary opposition. There is no "one size fits all solution" - we all have different traditions. Our debate provides us with the opportunity to share best practices.

A parliament cannot function well without a respected and respectful opposition. Ensuring the rights of the opposition means ensuring the principle of agreeing to differ, of creating a platform for discussion within a peaceful framework. Within this, different views can flourish, alternative political platforms can be built. It means creating safeguards to avoid the misuse of power and establishing control mechanisms.

There is, however, an equal responsibility on government and opposition to promote a civilised debate. The opposition has rights but also responsibilities. It should not disagree for the sake of disagreeing, but participate in and contribute to a constructive debate and the taking of well-founded decisions. By focusing on the balance between securing the legitimate needs of the majority and safeguarding the needs of the opposition, our discussion today is an important contribution in this respect.

In Norway we have a longstanding tradition of minority governments. To put this into perspective, last year saw the re-election of a majority government in Norway for the first time since 1969. This re-election has provided stability and continuity in government policy. At the same time, Parliament's role is different under a majority government. My responsibility is to protect, preserve and promote the powers and position of Parliament. Parliamentary debates must be vitalised in order to permit an effective communication with the nation's citizens. In order to achieve this, an engaged and active opposition is absolutely vital.

Most of the explicit rights of the minority in the Norwegian Parliament are associated with the preparatory work that takes place in the standing committees. A prominent characteristic of our working methods is that each Member has considerable freedom to submit proposals – both proposals that may form the basis of a separate debate and proposals put forward during the consideration of a specific matter. Additionally, Members have extensive opportunities to put both oral and written questions to the Government and to conduct scrutiny.

Last month, the Norwegian Parliament organised a seminar on Opposition rights and responsibilities in parliaments under the auspices of the European Centre for Parliamentary Research and Documentation, ECPRD. A questionnaire was circulated to all the members, with resolution 1601 as the starting point. Some main trends were identified: only a few countries explicitly define the role of the opposition in the constitution, laws or regulations. Rights of the opposition and parliament minorities are often covered by individual rights for all members of parliament. However, in a number of parliaments a certain minority quorum is required in some areas. We would be happy to share our findings with interested parliaments.

The concept of an opposition is closely linked to the concept of political freedoms and the right to form a different opinion, groups and associations. We can trace this back to the French Revolution, the Declaration of Human Rights and Montesquieu's teachings on the separation of powers. So important is the idea of an opposition. Parliament, after all, is fundamentally about debate – about the right to express dissent in a civilised manner. If these systems are perceived as not working well, it will fundamentally threaten democratic rights and freedoms. (*Applause*)

### **Mr Gundars DAUDZE, President of the Saeima (Latvia)**

We have gathered here in Cyprus in order to deal with questions which have always been matters of concern to democratic nations. The democratic system is a fundamental value which has been shared by all the member states of the Council of Europe for over sixty years now. We Presidents, Speakers and representatives of Parliaments in member and observer countries of the Council of Europe have the direct responsibility of ensuring that parliamentary democracy is operational in our countries, is guaranteeing good governance and serving the interests of our fellow citizens. The goals are clear, but every country represented here takes its own road towards those goals. This road depends on the maturity of the democracy, historical traditions, political culture and many other factors.

Latvia celebrates the 20<sup>th</sup> anniversary of the restoration of its statehood this year. Just over twenty years ago, the word "Latvia" could not be found on many maps of the world. The inhabitants of our country, like other peoples in central and eastern Europe, lived under totalitarian communist dictatorship and were subjected to the experiments of a planned economy. This situation did not, however, erase the yearning of our peoples for independence and freedom. The longing for independence, basic human rights and the return to the family of European democratic States was the driving force for major changes. Our aim was clear: we wanted to live in security and peace in a democratic and flourishing country. And therefore in a relatively short period of time, Latvia carried out major reforms which had taken other countries many decades to accomplish.

This year, Latvia is also celebrating the 15<sup>th</sup> anniversary of its accession to the Council of Europe. It can also look back on its six years' experience as a member of the European Union and the North Atlantic Treaty Organisation. During these years the welfare level of our State has increased. We have acquired valuable experience which we can now share with partner countries.

We must nevertheless admit that the issue we are addressing today, namely co-operation among the coalition and opposition, is one of the fields in which we have encountered a number of problems and where there is still room for improvement.

Since the restoration of independence, five democratic parliamentary elections have been held. In October this year a new convocation of the Saeima will be elected. Over the past twenty years Latvia has had 15 different governments, based on strong or minority coalitions. Several political parties and party unions have been created and fallen apart. Yet no political party has ever been able to get the absolute majority in Parliament. This means that Latvian politics has always involved piecing together coalition governments, which has influenced the political climate and parliamentary procedures.

I have been the Speaker of the Saeima for almost three years now, and I must say that this period has seen many challenges to the legislature. Latvia was hard hit by the world financial and economic crisis. In order to counter the consequences of this crisis and to put our State back on the track of economic growth, the Government and Parliament have had to take tough, and often unpopular decisions. This has doubtless had negative effects on our citizens' trust in the political authorities, particularly Parliament. At one point we were on the brink of having to call early parliamentary elections.

In such difficult circumstances, it was vital to secure a political consensus in order to take the requisite decisions for the long-term development of the State, rather than for the benefit of any single political party. We have taken major decisions on which we have managed to agree with the main opposition parties. All the same, given the imminence of the elections and our current minority government, the situation is becoming increasingly difficult. I have to emphasise the important role played by civil society here, by remaining immune to populism and seeking to ascertain whether the decisions taken are in line with the long-term interests of the State.

Ladies and gentlemen, I think that many of you have had similar experiences and could describe this as a logical political process. I wholeheartedly back the Council of Europe's attempts to reinforce the rights of the opposition so that it can influence the political agenda and the legislative process. In fact, many good practices have already been incorporated into our Parliament's Rules of Procedure.

A constructive opposition can definitely never rest on its laurels. Such passivity can even strengthen the ruling party. At the same time, I urge you not to underestimate the concept of responsibility. Latvia's experience shows that any political party can be in power at one moment and in the opposition the next, and vice versa. Consequently, before making any decision or statement, each individual has to assess how it will influence Parliament's position as a stronghold of democracy and the level of confidence in the legislature, and gauge whether they are consistent with the State's long-term interests.

We all have our own mandates, but whether we are in power or in opposition, we are responsible for fulfilling the promises we made before the electorate. We must also ensure that the decisions we take reinforce rather than undermine parliamentary democracy. This is our responsibility, to our voters and for the future of our States. (*Applause*)

### **Mr Ranko KRIVOKAPIĆ, President of the Skupština (Montenegro)**

After two decades in different parliaments, I would like to talk about the relationship between the opposition and the ruling parties. A great artist once painted Narcissus gazing at his own reflection. This is rather like a candidate who has just been elected. Those in power, like Caravaggio's Narcissus, think they have reached the ultimate goal, but the reflection they see is the opposition, and also public opinion. This should prevent you from resting on your laurels. We must show courage in opposition, which will ultimately enable us to create masterpieces like Caravaggio.

Unfortunately, after a while the opposition is no longer the reflection of Narcissus: it starts to make the same mistakes over and over again, and this great painting perfectly illustrates human failings, namely the fact that we tend to repeat the same mistakes rather than serving the people. This makes us liable to be fatally attracted by the water, like Narcissus.

Parliamentary representation of the opposition and of minorities is vital, particularly for the proper running of democratic life. Opposition and government are the two pillars that support democracy. Democracy can only advance if both legs bear it up, and there can only be economic and social development if both sides are balanced. The relationship between majority and opposition is particularly difficult in countries which lack a longstanding tradition of democracy. In countries like

Montenegro, where democracy was established in the 1990s or the early 21<sup>st</sup> century, the most important thing is to manage to ally forces which seem basically opposed.

Right from the outset of my mandate as President of the Montenegrin Parliament I was determined to reinforce both the role of Parliament and our citizens' trust in our public institutions. Today, our Parliament is a dynamic, proactive institution which might be seen as the centre of democracy in Montenegro. Public trust in parliamentarians is growing, and, even more importantly, Parliament now plays a central role in policy-making. Nevertheless, things are not easy, even if the east European countries have now fully realised the advantages of democracy. The constant questioning and challenges to authority, power, and so on, all these factors can only strengthen parliamentary democracy.

My real credo is to believe in parliamentary democracy, and to believe that the words "democracy" and "Europe" are virtually synonymous. (*Applause*)

### **Mr Arturo NUNEZ JIMENEZ, Vice-President of the Senate (Mexico)**

I would like to congratulate the Council of Europe on organising this Conference, and thank it for inviting Mexico being an observer. The Mexican delegation passes on to you the cordial greetings of the President of the Mexican Senate, Carlos Navarrete.

In order to precisely place the rights and responsibilities of the opposition in the Mexican Parliament, we must take account of the federal structure of the State and the presidential structure of the government. In connection with the former point, we have parliamentary chambers at the national level, but also in the 32 federal entities.

In connection with the presidential system, it should be borne in mind that the Head of State is also the Head of Government. He is elected by universal suffrage, without the participation of Congress. The senators and representatives are also elected by universal suffrage, but in separate elections, which means that the executive and legislature can sometimes comprise the same and sometimes a different political party.

Unlike many Latin American countries whose governments lack a parliamentary majority, between 1929 and 1997 we in Mexico had a unified government, because of the existence of a hegemonic party.

We have now entered a phase of multi-party competition, because seven political parties are now officially registered and represented in Parliament.

At the present time, majorities can differ from one local or federal chamber to another. In the Senate, for instance, the governmental party has a relative majority, but in the House of Representatives, a different party holds a relative majority. The consequence of this situation is that the opposition generally behaves responsibly and ensures that the political organs function properly.

The coexistence of different majorities and the possibility of political alternatives means that the opposition plays a very important role in revitalising the Mexican Congress, particularly in connection with the separation of powers and government scrutiny. Some predicted that this would eventually paralyse the whole political system. This has not at all been the case. Parliamentarians, whether from the majority or the opposition, endeavour to reach agreement, keeping the common interest at the forefront of their minds.

No formal regulations have so far been adopted on official coalitions. Depending on the balance of power among parties in Parliament, the opposition is guaranteed the right to take part in plenary session, in parliamentary committees and the various governmental bodies. All groups participate

in drawing up the order of business and conducting parliamentary work, and they are granted the requisite resources, proportionally to their representativity, for executing their business.

The minority groups have a number of specific rights under the Constitution. They can refer a Bill to the Supreme Court of Justice if they consider it unconstitutional, or request the setting up of parliamentary investigatory committees and public enterprises. On the former point, complaints regarding unconstitutionality must be submitted by a minimum one third of the membership of the Senate, and in order to request the setting up of an investigatory committee, a minimum 25% of the federal representatives or 50% of Senators must vote in favour.

The work of this Conference will be extremely useful for us in our endeavours to adjust our legislature broadly to your European parliamentary models.

This year, in 2010, we are celebrating the bicentennial of our independence and the centennial of our revolution. Congress is currently conducting an in-depth reform of the political system, covering not only relations between the different powers but also, more broadly, the whole institutional structure, in order better to satisfy the aspirations of our people and the values of the democratic rule of law. *(Applause)*

### **Mr Michael FRENDU, Speaker of the House of Representatives (Malta)**

As the excellent Secretariat background paper on Rights and Responsibilities of the Opposition in a Parliament points out, while all countries have governments, only democracies have a recognised Opposition. This is a defining element of democracies, and therefore it is a duty of Parliaments to ensure that the Opposition in Parliament has all the necessary tools to carry out its tasks in accordance with the Constitution of the country and the Standing Orders regulating Parliamentary work.

A healthy parliamentary system dictates that all lawfully elected representatives of the people must be able to present and discuss alternative policy options, even if they are not part of the government and do not have an immediate way of making their plans succeed. In Parliamentary Democracies, democracy does not limit itself to the ballot-box, however much a free and fair election is fundamental to the real exercise of democracy. After the vote has expressed the free will of the people, during the term of office of the legitimately elected Government, it is equally important to ensure that the voices of Opposition in Parliament have the opportunity to be heard and listened to.

These rights of the Opposition, as well as the rights of the Government, within the parameters set out by Parliament, are to be exercised responsibly according to fair Parliamentary procedure and in line with the basic principles which characterise the Council of Europe's work; democracy, rule of law and for fundamental human rights.

In our Parliament, Parliamentary Questions at the beginning of each sitting provide the Opposition, and indeed all backbench members, with an effective tool for inquiring about how government policies are being implemented and for raising awareness of certain issues raised by NGOs, their constituents and minority groups.

The President of the Chamber has a role to play in regulating supplementary questions, and in this regard has to strike the right balance between, on the one hand, an overly strict application of accepting only supplementary questions related closely to the original question, and on the other, accepting supplementary questions which are completely unrelated to the original question or to the Minister's answer. In finding the right and fair balance, in my opinion, it is important for the Speaker to allow the debate to flow as freely as possible while at the same time adhering reasonably to the rules which regulate this important part of the parliamentary sitting.

Parliamentary Committees also offer another framework for Opposition Members to propose discussions including issues raised by civil society, and even to encourage direct representation

from such groups through their participation in the Committee Meetings. In our Parliament, the Social Affairs Committee takes particular advantage of this process of engaging with civil society.

In the Maltese Parliament, the Public Accounts Committee which carries out financial scrutiny functions, is chaired by an Opposition Member. Our Standing Orders furthermore state that the Public Accounts Committee shall have the power to, inter alia, "request the Director of Audit to submit memoranda on any matter where a request for such submission is made by at least three members of the Standing Committee". This requirement is easily satisfied by the number of Opposition Members who sit on this particular Committee.

The Legislative Function, of course, also forms a central part of Parliamentary work. The Opposition plays an extremely important role in supporting or opposing the proposals coming from the Executive. This role extends to each stage of parliamentary scrutiny and debate, especially in the Committee stage where each Clause is discussed and voted upon, and where an active Opposition contributes significantly to the production of well-crafted legislation resulting in smooth implementation once a Bill is adopted as law.

The Opposition can only carry out this role effectively if it finds a receptive Government Minister piloting the bill who is ready to chisel out a compromise text during debate.

Furthermore, as a matter of right, each Member of Parliament has 28 days in which to table a motion requesting the withdrawal or amendment of subsidiary legislation. Therefore, this ability to propose/change by the Opposition also extends to subsidiary legislation which today, with its super-abundance, constitutes a real challenge to effective parliamentary scrutiny: but that is another subject for debate.

In implementing its rights, the Opposition is required to be proactive and not only reactive, to be creative and not only negative, not to be obstructionist but rather act, at all times, as the alternative government of the land.

The vitality of Parliament and even the performance of Governments are conditioned by a strong and active Opposition. Democracy is about choices, differing opinions, and the sharing of views, and it is the duty of the President of Parliament to facilitate these processes while ensuring that the work of Parliament is achieved. In one of our Standing Orders which deals with the curtailment of debate, the Speaker is called on to ensure that such curtailment does not constitute "an infringement of the rights of the minority". Although this is a very specific reference in our Standing Orders, it does show that the rules governing the House of Representative are concerned about protecting the minority and ensuring that the majority does not adopt a "winner-takes-all" approach in Parliament.

Democracy, as expressed in society, and as personified in its Parliamentary dimension, is not only about winning elections. It is also about a way of life, a method of decision-making, and a process of consensus-building which seeks to find common ground in compromises which take into account the varied interests of stakeholders in society. In this context, the role of the Opposition is an integral part of democratic life, and the President of the Assembly is duty-bound to run Parliament and interpret its rules in this light, while at the same time matching such an interpretation with the needs of Parliament carrying out its work effectively and efficiently.

In this balancing act, it is difficult to identify a formula which applies across the board and is applicable in all circumstances. It is much less difficult, however, indeed it is a simple truth, that Government and Opposition represent two sides of the same coin, and it is the duty of the Speaker of Parliament to ensure that together both sides of this coin provide the highest possible added value to democratic life in the country. (*Applause*)

**Mr Ceslovas JURSENAS, Deputy Speaker of the Seimas (Lithuania)**

What prompted my address today to this distinguished audience was one of the conclusions in the background papers, and I quote: “with very few exceptions (such as Portugal and Lithuania), the constitutions and laws of European States do not define the role of the opposition”. We have indeed institutionalised the opposition in Lithuania and made relevant provisions in the Statute of the Seimas in 1993, even though in fact the opposition was active already back in the interwar period in 1920-1926 and continued its work after the re-establishment of independence in 1990-1992. During these two periods, the opposition benefited from a wide range of individual and collective rights to which all parliamentarians in Lithuania are entitled.

However, between 1992 and 1996 the left-wing Seimas, over which I had the privilege to preside, came up with an idea that an opposition, as an “elixir of democracy”, needed extra rights and opportunities in addition to the common rules and rights applicable to MPs in parliamentary democracy. I think that my colleague from Portugal who referred to the opposition as a characteristic feature of a healthy parliament will agree with my definition of opposition as an elixir of democracy.

Ladies and Gentlemen, let me move on to the experience of Lithuania.

Firstly, the opposition is entitled to two mandatory seats at the Board of the Seimas and the Conference of Elders; in addition, the ex-officio leader of the opposition also forms part of these bodies of the Lithuanian Parliament. In line with the Statute, the opposition is in charge of appointing chairmen to some committees and commissions, including the Audit Board, the Anti-Corruption Commission, and the Commission for Ethics and Procedures. Incidentally, I am Deputy Speaker of the Lithuanian Seimas on the basis of the quota attributed to the opposition.

Secondly, once a month members of the opposition (either one or two smaller political groups) are entitled to draft the agenda of the Seimas sitting, which the parliamentary majority does not have the right to amend. The opposition often benefits from the general right to include a topical issue on the already approved agenda of any sitting, subject to prior collection of MPs’ signatures.

Thirdly, opposition representatives take priority in addressing questions to public officials, and also take part in the parliamentary discussion on a priority basis.

Fourthly, when at least three members of a parliamentary committee disagree with the majority’s position at a committee meeting, the minority opinion of the committee, that is to say the opinion of the opposition, is submitted to the Parliament and must be considered at the Seimas sitting.

Fifthly, the opposition may propose to defer consideration of an issue: one fifth of the votes of MPs are enough for doing so (when the request comes from the ruling coalition, one third of the votes is sufficient). The opposition may oppose the termination of the debate (1/3 of votes is sufficient for that).

Sixth: undoubtedly, the opposition actively performs a range of parliamentary scrutiny activities in the Lithuanian Seimas (including questions, inquiries, interpellation, and motions of no confidence).

Moreover, it is more likely to use these functions than the governing political groups in the parliament.

Seventh: the opposition, as well as all MPs, can apply to the Constitutional Court. The opposition often has recourse to this right, as 1/4 of the total number of votes (or votes of 36 out of 141 MPs) is enough for a legally motivated application.

Eighth: the opposition may, and does submit an alternative Government Programme.

Ninth: the leader of the opposition is entitled to additional rights. He may speak at the Seimas sittings without waiting for his turn, propose issues for urgent deliberation, and so on.

In conclusion, for the sake of historical accuracy, I want to say that in addition to Lithuania and Portugal there is one more country in Europe where the rights of the opposition are defined in the constitution and relevant legislation. It is Germany, where the Constitutions of the Federal States (the German *Länder*) have defined the rights of the opposition ever since the early post-war period, even before the Portuguese Constitution and Law on the opposition were promulgated in 1976. Furthermore, in 1991 the Constitution of Colombia in Latin America defined the rights of the opposition.

As today's conference and the contributions of the previous speakers have demonstrated, the opposition is well-established in the European parliaments through long-lasting tradition and also through legislation. This is the real guarantee of parliamentary democracy, because the existence of a vibrant opposition, to which a number of national representatives belong, legitimises the parliament as a truly national representation, and equally legitimises the national bodies and authorities which this parliament approves. (*Applause*)

### **Mr Jean-François ROBILLON, President of the National Council (Monaco)**

I would like to begin by very warmly congratulating the President of the Parliamentary Assembly of the Council of Europe, Mr Mevlüt Çavuşoğlu, on his election last January. I would also like to thank him, together with Mr Marios Garoyian, the Speaker of the Cypriot House of Representatives, for their invitation to this Conference.

I am very touched and honoured to be invited to speak to my opposite numbers from the Parliaments of all the member democracies of the Council of Europe.

I am touched because this is my first address to a high-level international parliamentary meeting in my capacity as Speaker of the Monegasque Parliament, and honoured because Presidents Çavuşoğlu and Garoyian invited me to speak to you here.

I also wanted to thank the secretariat of the Parliamentary Assembly and the Cypriot Parliament for their excellent organisation of this meeting.

After these opening remarks, and before moving on the theme of our debate today, namely the rights and responsibilities of the opposition in a national parliament, I just wanted to apologise for the absence from our delegation of the opposition representative, Mr Christophe Steiner, who would have wanted to be here but was unfortunately detained by other business.

The Monegasque institutions are the result of a subtle balance in which the National Council plays its full role as a co-legislator and vital partner for the Government in defining the general policy of the country, especially by adopting the national budget. Few parliaments in Europe can boast a level of independence and freedom of action comparable to that enjoyed by our parliament vis-à-vis the executive.

The 2002 reform of the Monegasque Constitution and electoral law, as a result of Monaco's accession to the Council of Europe, made representation of the opposition in the National Council virtually automatic. This is a major democratic achievement, but it must not lead to any weakening of the role of our Parliament.

As you know, the Principality of Monaco is not a parliamentary regime, which has direct consequences on the status of the opposition. Everywhere else the opposition in Parliament is in fact an opposition to the majority Government. The truth of the matter is that appointments to the Monegasque Government are a matter for the will of the Prince and are therefore completely disconnected from the outcome of the elections.

Clearly, in this configuration, unless we wish to weaken the role of Parliament overall, the opposition cannot have rights enabling it to neutralise the political choices of the majority chosen by the Monegasque people on the basis of a political programme.

In addition to their legislative and budgetary functions, which I have already mentioned, members of the National Council take part in consultative committees comprising government representatives. The old majority had long hoped to exclude representatives of the minority from these committees, which are a vital part of the State decision-making process.

Nevertheless, during the previous parliament, in 2007, at the initiative of the current National Council majority, a unanimous request by members of the National Council, combining both majority and opposition, was submitted to the Government for a review of the representation of the opposition in the joint commissions and committee and for the statutory minimum number of opposition representatives to be set at three.

This move was geared to taking account of the one-third increase in the number of members of the National Council, and also of the pluralist composition of the Council following the 2002 constitutional reform.

The Government has basically taken the appropriate action to enable the opposition to join most of these committees and commissions, which deal with decisions of vital importance for the country. One example is the Investment Committee, which is required to pronounce on the management of our constitutional reserve fund.

Where legislation is concerned, I might point out that the Monegasque Constitution entitles all elected representatives, whether from the majority or the opposition, to table Bills. As Speaker of the National Council I regularly encourage members of the minority to exercise this right, and in fact to engage in what I would call constructive opposition, which can only be supported by the majority on subjects of national interest. Unfortunately no member of the opposition has ever tabled a law in the past seven years.

Alphonse Karr once said that "systematic opposition is always careful not to ask for anything which it might obtain, because it would then have to be satisfied; and a satisfied opposition is an opposition which no longer exists". How I would like to give the lie to this quote!

Long live the Council of Europe!

Long live co-operation among the Parliaments of Europe! (*Applause*)

**Mr Harm Evert WAALKENS, Deputy Speaker of the Second Chamber of the States-General (Netherlands)**

It is both an honour and a pleasure for me to be speaking to you here today. I am standing in for Ms Gerda Verbeet, President of the Netherlands House of Representatives. She was unable to attend because of the general elections held in our country two days ago. The same applies to Mr Van der Linden, President of the Senate and former President of the Parliamentary Assembly of the Council of Europe. Both of them have a major role to play as advisers to the Queen. They asked me to pass on their best regards to you.

I would like to thank the Cypriot Parliament for its hospitality.

I will be making a number of comments on the elections which have just taken place in my country. The outcome of these elections has dramatically changed the political landscape. Although the electorate has spoken and the results are surprising, we can say that Dutch society is confused about the political direction they will be taking in the near future.

Analysis of the election shows broad agreement on the need for large cuts in our budget in order to restore our economy and restore trust in the financial system.

Another major item discussed during the election campaign was our ongoing debate on immigration and the integration of newcomers into our society.

These subjects frighten the general public and polarise our traditionally tolerant country.

Given that our electoral system provides for a very low representation threshold, at least 13 political parties are currently represented in our Parliament. For instance, we are certainly the only parliament worldwide to have an animal rights party. On the other hand, we are convinced that this very low threshold gives a voice to all the signals sent out by society in our Parliament.

As I say, the results of the elections have dramatically changed the political landscape. Such a traditional party as the Christian Democrats have lost half their seats. They are normally the biggest party in the Netherlands, and now they are in fourth place. Our Prime Minister, Jan Peter Balkenende, the Christian Democrat leader, has shouldered the responsibility for this terrible setback on the part of his party and resigned as party leader.

The Liberal Party has become the biggest party with 31 seats out of a total of 150, and will take the lead in forming a coalition. The Social Democrats, who had hoped to come out as the biggest party, now have 30 seats, a very close call.

The big winner has been Geert Wilders' Freedom Party: with 24 seats it is the third largest party in Parliament. This is surprising, because the exit polls conducted over the final fortnight of the election campaign gave him fewer seats.

At least four different parties are about the same size, and it will be very difficult to form a coalition, because of the deep-seated differences in their political opinions.

Everyone is confused or shocked by the outcome of these elections. The political classes, society and the non-governmental organisations are now anxiously awaiting developments in the Netherlands.

Our Constitution gives the Queen a role in starting the procedure of forming a Government; I am sure she is not confused and will rise to this enormous challenge.

The subject of our debate is the role of the opposition.

In the Netherlands, a cabinet can only be formed if several parties agree to enter into a coalition. Never in the parliamentary history of the Netherlands has a single political party won the absolute majority of seats in the House of Representatives. So we can never be sure in advance which combination of political parties will be able to form a new cabinet after the elections. The coalition parties therefore always realise that they might well be in opposition during the next cabinet term.

This uncertainty about the future – will my party be part of the coalition in power or not? – has apparently increased in recent years, because Dutch voters are becoming less and less predictable. The established parties would seem to be losing many of their traditional supporters, while the number of floating voters is constantly increasing. Therefore, in our electoral system – and this is the same everywhere, I suppose – it is important for a political party to present a strong image to the potential voters.

The media have taken advantage of this development and are playing a key role in constructing party images, particularly at election time. In the Netherlands, the analysis of the outcome shows that some 45% of voters changed parties since the previous elections.

Our endeavour to provide a stronger countervailing power has changed mutual relations between political groups in the House of Representatives. Parliament's capacity to investigate will further grow in the future owing to a significant growth in investigation staff numbers.

It is essential to strengthen the role and position of the political groups in parliament representing minority and opposition parties. I shall give you a few examples of the necessary steps we have taken in our parliament to this end.

Firstly, an emergency debate can be held if at least 30 of the 150 MPs support the call for such a debate. This was laid down in the Rules of Procedure of the House of Representatives in 2004. The introduction of this minority right has been the most significant improvement of the position of the opposition and minority parties in the past few years. Opposition parties frequently make use of this right.

Secondly, since 2002, every member of the House can put him- or herself forward as a candidate for the Presidency of the House. Before 2002, it was standard practice for one of the coalition parties to provide the Presidency of the House. With the President now being elected by the House, it is now also possible for a member of the opposition to be elected President.

Thirdly, last year a proposal from an opposition party was adopted to grant every party, including opposition parties, a seat in all standing committees of the House of Representatives and to have every party represented in parliamentary delegations engaged in inter-parliamentary relations. Because these relations have become more and more important, the influence of the opposition has increased and its position has become stronger. I'll give you an example: recently the House of Representatives set up a committee to carry out an investigation into the causes of and responsibilities for the financial and banking crisis in our country; the Chairman of this committee was a member of the opposition party.

The improvements in the position of the minorities in our Parliament which I have just mentioned are an extension of the right our Constitution has granted traditionally to every member of the House of Representatives. By making more active the use of the whole range of parliamentary tools, the entire House of Representatives, and the opposition in particular, has become more prominent and powerful in scrutinising the work of the Government and in co-legislation.

The duties of the opposition are often described in rather general terms. In a democracy, it is the opposition parties' natural role to critically assess the majority, but in my view, the limits are set by the principles of democracy itself. Eventually, abuse of power, even by the opposition, would erode democracy. That is why in a democracy being in opposition requires respect for the democratic system.

They have to show voters their capacity to participate in a cabinet. This means that they sometimes have to present constructive alternatives to the proposals and the budgets presented by the cabinet in office.

When it comes to the rights and competences of the opposition, there are many differences between the member states of the Council of Europe. These differences can be explained by the diversity of our democratic traditions and their development in the history of our respective countries. This was in the past, and still remains, a good *raison d'être* for the Council of Europe and its Parliamentary Assembly. In my view, exchange of knowledge and visions of these issues is of great importance for the development of our democratic systems in Europe.

I conclude my contribution with a quotation I came across last year on the cover of a booklet published by the Inter-Parliamentary Union on 15 September, the International Day of Democracy: "The test of courage comes when we are in a minority. The test of tolerance comes when we are in a majority". (*Applause*)

**Mr Josep DALLERÈS CODINA, President of the General Council (Andorra)**

Traditionally, and for centuries, the members of the Andorran Parliament attended sessions dressed in large identical grey capes in order to convey the equality of their functions regardless of their origin, fortune and education, and to guarantee their right to speak under identical conditions. We have retained this custom even today for traditional sessions, particularly the opening session of the new parliament when the President of the assembly is elected.

In a democratic State, Parliament is an assembly intended to represent the people, and therefore the whole of society. On the people's behalf it holds legislative power, supervises the action of Government and, an aspect which is deemed primordial, adopts the State budget. However, let me just put a question, on this third point: in the light of our recent history, should the stress which is currently laid on the adoption of the budget not be shifted on to strict scrutiny of the implementation of the budget, which is the quantitative expression of policies genuinely put into practice?

So Parliament is, or at least should be, a central forum for deliberation, the place for political debate par excellence. But we know that in our modern societies it is not the only forum, far from it!

However, let us get back to Parliament.

Its composition, which is a result of direct elections open to all and is based on a standard electoral system, is generally pluralist, and if no clear majority emerges, alliances are required. The aim is to secure a governmental majority, if possible a stable one, with the other forces making up the opposition.

In my view, the rights and responsibilities of the opposition can only be meaningful as corollaries of the rights and responsibilities of the majority, and vice versa. If the majority has the right, and I would add the duty, to govern, it also has the responsibility of knowing how to govern and with what aim. This means that it must have all the requisite information to justify the support which it gives the Government.

In return, the opposition, whose members have the same rights and duties as the members of the majority, is entitled to demand the same information as the majority; it is entitled to oppose governmental policies, and it has the equal right and responsibility to propose alternatives, different policy choices.

It is generally the assembly's rules of procedures which establish the necessary mechanisms to ensure that both government and opposition can act responsibly.

In Andorra, for instance, where majority and opposition figures are not recognised in the Constitution, the Rules of Procedure ensure that they are involved in the assembly's governing bodies, and mechanisms do exist to ensure that the Government disseminates the information available to it.

However, is it not oversimplifying matters a little to speak of majority and opposition in the singular?

Broadly speaking, the opposite of majority is minority, but surely our societies are made up of majorities and minorities in the plural?

I am well aware – who isn't – that most of our parliaments, and Andorra is no exception, are subject to the interplay of political parties. I am equally well aware that, overall, our electoral laws prioritise the "territory" factor in order to correct that of "population". But the fact is that our societies, which are increasingly urban, comprise many other significant elements which might be

taken into account in our thinking on, or indeed rethinking of, Parliament – we'll have to do so at some stage – as a place genuinely representative of the whole of society.

Let me conclude with a question which I have been increasingly asking myself recently. At a time when opinion polls are conducted at the drop of a hat, TV questions are broadcast every day, whether well-intentioned or not, at a time of Facebook, blogs, Twitter and other mass communications systems, is it not time we, in our Parliaments, in order to defend the parliamentary democratic system, started seriously thinking about the possibility of a real, more open participative democracy extending and exceeding, and therefore hopefully consolidating, the system inherited from the 19<sup>th</sup> century? Should we not be endeavouring to get away from a system of endemic oppositions to achieve a system of co-operation on projects, perhaps shared by plural minorities, but capable of attracting much more than the current type of majority – 50% - if we want to both reduce the increasing elector abstention in many States and be able to implement the sustainable policy measures which are vital in the medium- and long-term? (*Applause*)

### **Mr Fritz NEUGEBAUER, Vice-President of the National Council (Austria)**

I would like to pass on the greetings of my colleagues in the National Council and also the President of the Federal Council, the Austrian lower chamber.

The place of the opposition in a parliament depends on a number of factors. There is first of all the majority's attitude to the minority, particularly when it comes to legislation and scrutiny of the Government and the administration. Such relations between the various parties must be based on respect. Austria has five political parties: the Christian Democrats and Social Democrats, which are in Government, and three other smaller parties, which constitute the opposition. We have defined the rules of the game in parliamentary Rules of Procedure which have the force of law. Although the rules can be amended, this is subject to a qualified two-thirds majority. This means that opposition members must be associated with any amendment that is to be made. In fact, the tradition is that amendments to the Rules of Procedure must be unanimously adopted.

The rights of minorities are linked to the individual rights enjoyed by each member of parliament, but also by each group of MPs. Each MP is entitled to put oral questions, to request a split vote and put forward procedural motions during debates. Five MPs may get together to table Bills and amendments. Twenty deputies, out of the total of 183, can request the convening of an extraordinary session of the National Council within eight days. One fifth of the membership can table motions of no confidence in the Government, and even demand the dissolution of the National Council. A quarter of the MPs can request an analysis of the national finances by a special commission. These are some examples, among many others, of the special rights of minorities, individually or collectively.

There is a tacit agreement that committees responsible for scrutiny of the Government must always be chaired by a members of the opposition – I am thinking especially of the audit board and the constitutional and human rights committees.

We are currently considering amending our Rules of Procedure to bring them into line with the Lisbon Treaty. This change obviously concerns the Constitution, and the opposition, following the example of Germany, is requesting the setting up of a commission of inquiry to consider issues of responsibility, in the political rather than the legal sense. Our Rules of Procedure are very flexible. The Bureau of the National Council has eight members, which enables the five parties I mentioned to be represented in it. The Bureau decides on all major questions, including agendas, and we always strive to reach unanimous decisions. This is another area in which we must respect not only the letter but also the spirit of the Rules of Procedure.

Some think minorities have too many rights in Austria. Of course, it is for every democracy to set the rules, and ultimately it is the majority which takes the decisions, but a strong opposition instils new life into the debates and therefore into democracy itself.

The many statements which we have heard have shown that we have much to learn from each other, and this is very useful for all our different parliaments. I wish you every success in your activities and in the peaceful development of your countries and Europe.

## **Chair**

There are no more speakers on the list distributed. I now give the floor to Ms Tsacheva to reply to speakers.

## **Ms Tseska TSECHEVA, President of the National Assembly (Bulgaria)**

We are approaching the end of our discussion of the first topic on the agenda of our Conference.

I am extremely satisfied with the manner in which this high-quality discussion has been run. An enormous number of speakers, high-level representatives of their assemblies, have shared their experience, and this shows that Mr Çavuşoğlu has pinpointed a subject which is topical for all national parliaments.

I shall just go back over a number of important points. I hope you would give me your unanimous support when I say that the opposition is the necessary corrective in order to prevent the abuse by the majority of the power conferred on it. Clearly, the opposition is organised against the political party in power, but it plays a role which I tried to systematise in my initial contribution. It might be seen as the combination of all the duties and responsibilities of the opposition within a parliamentary democracy.

Most of the speakers sharing their experience with us have outlined the fact that the opposition in current national parliaments has been institutionalised in such a way as to guarantee in the various rules of procedure the rights of the opposition. These rights concern Parliament itself, for instance, allocating the chairs of various standing and ad hoc committees, parliamentary delegations, where its presence is guaranteed, on a parity or other basis.

Secondly, the opposition can take part in preliminary discussions with the President of Parliament, the Vice-Presidents and the majority groups, notably in order to draft the parliamentary agenda. I have noted that most of the national parliaments guarantee financial support for the opposition parties, which is a very important principle. Occasional changes of majority in a country are quite normal. A party which is in the majority should never forget that it might very shortly be in opposition, and vice versa.

I share the concern voiced by some of our colleagues, sometimes quite diplomatically, about the imbalance between the volume of right granted to the opposition and the manner in which these rights are exercised. This is why I used the expression "abuse of power" in my initial speech. The opposition sometimes behaves very differently in a meeting of the Bureau of a Parliamentary Chamber which is not broadcast on radio and television from meetings whose debates are broadcast live.

In order to ensure balance between the powers conferred on the opposition and the manner in which they exercise them, it is vital that the opposition should act constructively and not destructively. This means that it must be given the resources to turn its back on purely political interests and constructively participate in the political process, thus showing its ability to react in times of crisis or difficulty. At such times it is vital to achieve national unity and, as in the case of the financial and economic crisis, take extremely difficult measures. However, we must admit that the opposition sometimes seems very far from such a constructive approach.

The rights and responsibilities of the opposition vary in volume in the different national parliaments. Our Czech colleague thinks that opposition rights have developed more extensively in the former Soviet bloc countries. I would agree, but would just point out that in these countries the fight for freedom took place in a particularly sombre context. Only when you have lived in circumstances that deprive you of freedom can you develop the strength to fight fiercely to conquer it. So this has shown us how important it is for the opposition to be granted its proper rights.

Where the role of the Speaker vis-à-vis the opposition is concerned, we must try to show some diplomacy. We must try to understand the opposition's point of view, but cannot allow it to abuse the powers it enjoys. That being the case, we must accept that the opposition is entitled to put questions to the Government from time to time, requesting information which cannot be obtained by any other means. When plenary sessions are televised, we note that the opposition is sometimes very careful not to raise certain matters, thus attempting to put a different slant on what really happens in Parliament.

An amendment is required to the Rules of Procedure of the Bulgarian National Assembly, but I shall not dwell on this very specific issue. We have had an excellent debate on the opposition, albeit in the absence of the opposition members, because both the Speaker and the Deputy Speaker are considered as representing the majority. Perhaps this issue of apportionment of powers, the role of the internal opposition, should be included on the agenda of the Parliamentary Assembly of the Council of Europe. Our discussions have centred on the opposition to the ruling majority, but I feel that there can sometimes be an opposition within the opposition, and sometimes even an opposition within the majority itself.

To round off on a more positive note, I would hope that everyone will endeavour to avoid this kind of internal opposition and successfully handle any "incorrect" external opposition they meet with in their Parliaments. (*Applause*)

## **Chair**

Thank you very much, Madam Speaker, for your most valuable contribution to our debate, for your keynote speech at the opening and for your concluding remarks. We now come to the end of the debate on the first theme. I believe we have had a very enriching debate providing many examples of good practices that could inspire us in our respective parliaments.

The sitting of the Conference is suspended until 10 am tomorrow morning.

(*The sitting rose at 5.35 pm*).

## **Saturday 12 June 2010**

### **Second session: National parliaments and international human rights law: implementation of the principle of non-discrimination**

*The sitting opened at 10.10 am with **Mr Marios GAROYIAN**, Speaker of the House of Representatives of the Republic of Cyprus in the chair*

## **The Chair**

Ladies and Gentlemen, we shall now look at our second theme: National parliaments and international human rights law: implementation of the principle of non-discrimination. I would like to give the floor to Mrs Pascale Bruderer Wyss, Speaker of the National Council of Switzerland, to introduce the debate on this theme.

## **Mrs Pascale BRUDERER WYSS, Speaker of the National Council of Switzerland**

It is a great honour for me to introduce the important subject of integrating the principle of non-discrimination in our national legislations. A very helpful and interesting document has been made available for this conference and I would like to express my thanks for this. I shall not deal exhaustively with what it contains, but you will of course note that there are a number of common points. I am very happy to be able to speak about Switzerland and the path it has taken towards full equality between all citizens, both male and female. I look forward to hearing what you have to say and to learn about the legislative steps you are taking to promote greater respect for human rights.

The electoral body is not only a customer of the services provided by the state, and the state is not exclusively a company tasked with offering the best services. Citizens have dreams, they have plans for society and our democratic systems must make better use of community aspirations and knowledge. The great dream of our democracies is that the whole human community may enjoy the right to life, liberty and security. The ideal of our societies is that women and men should be equal and that this equality should be incorporated not only in law, but also in practice. As we saw yesterday, progress in fundamental rights is directly linked to the furtherance of our democratic systems and in particular to citizen participation. Human rights are developed in parallel to minority rights and the rights of the opposition. Minorities active in our civil societies are often the inspiration for major legislative reforms seeking to make our societies happier, more equitable and more pleasant.

The European Convention on Human Rights, deriving from the Universal Declaration of Human Rights, reveals the objective to be achieved in our constitutions and national legislation. It states that no-one should be discriminated against on the ground of race, gender, colour of skin, language, religion, political or other beliefs, national and social origin, wealth or any other situation. The most vulnerable are the ones most exposed to discrimination: migrants, travellers, foreign nationals, prisoners, the poor, the unemployed, children, members of cultural, religious, linguistic or sexual minorities run the greatest risk of being treated unfairly. To this list, we should also add women and people with disabilities. It is quite a challenge to think up bills to eliminate unequal treatment, but it is a real privilege to be able to discuss these issues one-to-one with our fellow citizens. Such an exercise should not be reserved solely to members of parliament, members of the government and political parties.

Switzerland is a country where because of our system of direct democracy we like to get involved in politics and many citizens are keen to play a part in the affairs of their municipality or canton, or indeed the Confederation, without necessarily wanting to be elected themselves or embark on a political career. Swiss citizens exercise their civic rights with seriousness, it is true, but also with a considerable amount of pleasure.

Citizens' relations with the state are more than a service relationship, especially as the specifically Swiss right of initiative enables citizens to express their aspirations and claims. This civic right encourages and strengthens people's interest in public affairs.

More precisely, if 100,000 citizens sign a proposed constitutional amendment, this proposal will then be put to a popular vote. If the majority approves, it will become part of the Constitution. The right of initiative offers a voice to the wide range of movements and groups in our society. Supplementing the action taken at parliamentary level, it also helps improve implementation of the principle of non-discrimination in Swiss law.

Switzerland already has a number of excellent instruments to ensure the equal treatment of its citizens. Article 8 of our Constitution guarantees equal rights and the principle of non-discrimination. This article is also reflected in legislation; for example there is a criminal law forbidding publicly committed acts of racial discrimination. The people have given their consent for two equality laws, one on equality between men and women and the other regarding people with disabilities. The electoral body has also given its approval for the registration of same-sex partnerships.

Despite these significant advances, there are still some gaps in private law and administrative law. Several members of parliament have tabled motions to fill these gaps, one of which called for the signature of Protocol No. 12 to the ECHR. I am sure we will be discussing this again further today.

I am looking forward to hearing what you will have to say so that I can learn more about the solutions adopted in your parliaments. But before giving you the floor, I would like to stress the value of the ethics of fellow-citizenship and solidarity in ensuring the effective protection of human rights. Equality's enemy number one before the law is not only indifference to the concerns and suffering of certain groups within our national communities, but also indifference to the potential of each and every citizen to play an active role in our societies.

Let us ensure that we have the means to develop mutual support. The motto "one for all and all for one" is not utopian if everyone fulfils their civic duty with and like others. Civil, political, economic and social rights are the best foundation on which human rights can thrive.

Our countries must ensure citizens' equality before their governments. This costly exercise of our freedom will not be without some opposition, in parliament and in public debate. It is a matter of reconciling private wishes and collective demands, personal interest and the general interest, egoism and civism. Lastly, we have to ensure that private interests accept the laws passed by the people in the general interest.

Implementation of the principle of non-discrimination is a long process. Let us show commitment to our parliamentary bills. Let us acknowledge the collective aspirations they express. Let us discuss with passion and common sense. Let us listen to each other.

Our national communities have a responsibility to protect human rights and everyone's ability to base their acts on those rights. Parliaments have a vital responsibility here: it is a matter of transmitting a sense of civic duty to future generations. It also concerns the vitality of relations within our populations and the cohesion of our countries.

The principle of non-discrimination requires the support of all citizens if it is to be incorporated into our legislations and be reflected in day-to-day practice. Let us take steps to encourage and nurture the sense of the common good, especially among the young generations. Let us encourage a desire to become closer to and more familiar with people who are different in order to overcome the fears they may arouse. Let us encourage openness and commitment to the community.

## **The Chair**

Thank you, Madam Speaker, for this most interesting contribution. It certainly sets the tone for what promises to be a stimulating debate. I now give the floor to Mr Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, to introduce the theme from his specific perspective, based on his experience. I would also like to take this opportunity to pay tribute to his tireless efforts to make human rights a reality for all the people in the Council of Europe member states.

## **Mr Thomas HAMMARBERG, Commissioner for Human Rights of the Council of Europe**

I have now been Commissioner for four years and one of the lessons I've learned is that discrimination is at the heart of many of the human rights problems we have in Europe. If there were no discrimination, many of these problems would be solved. Individuals are still denied equal treatment because of their ethnicity, their gender, sexual identity, sexual orientation, age, disability, nationality, language, religion, political opinions and other similar grounds.

We know that women continue to be discriminated against in the labour market and that they are underrepresented in political assemblies, perhaps even in this assembly.

We know that Roma people still have to face anti-Gypsyism and that they have to live in social and economic conditions which are far below average in their country.

We are also aware that some other ethnic and national minorities are disadvantaged. We know that immigrants in many cases are turned down when seeking jobs and often are victims of xenophobia. We know that Muslims, religious or not, are confronted with widespread Islamophobia in Europe today.

We know that lesbian, gay, bisexual and transgender people are often badly treated in a number of countries. They suffer homophobia, police harassment and are denied, in some countries, freedom of assembly.

We have also seen that people with disabilities are not granted equal opportunities as a right and often depend on pure charity. We know that psychiatric hospitals in certain countries continue to be under-resourced and use treatment methods which are definitely outdated.

We have been reminded now that these inequalities against these vulnerable groups and others have been made worse because of the economic crisis and among the people who have increasing problems are the elderly and others who have no real chance to start again.

In Europe, we are faced with an enormous challenge in the coming years to combat these inequalities and to build a society where there is room for everyone, not only for the rich and the strong, a society where social justice is protected.

And in this endeavour, national parliaments have a crucial role to play. That is what I am trying to talk about now, and I would like to do that by focusing on some of the major tasks of parliaments today:

- 1) Law-making and ratifying the international and European standards in the field of human rights;
- 2) Approving human rights plans and policies which should be provided by parliaments to the governments;
- 3) Adopting the state budget which is absolutely crucial when it comes to protection of human rights and prevention of discrimination;
- 4) Controlling the executive in order to ensure that it promotes the policies agreed upon to minimise discrimination in our societies.

First of all, on law-making:

It is advisable that every country in Europe has comprehensive anti-discrimination legislation. Legislation that covers all forms of discrimination without any ranking. Most of the countries have either adopted such legislation or are discussing such a move and I think that this is something that should be encouraged and here, the role of parliaments is absolutely crucial.

All these laws should have some mechanism to ensure that they are implemented in practice, and that the intention behind the laws is made a reality. All this could be inspired by the already agreed international standards, and of course ratification of these standards is another important task for parliaments.

The document drawn up for this conference refers to three treaties which we would encourage parliaments to ratify if they have not already done so.

Protocol No 12 to the European Convention on Human Rights contains a very simple message, which is to prohibit any kind of discrimination. The positive aspect of this Protocol is that it would also make it possible for the Court in Strasbourg to receive applications of instances of discrimination which are not already covered by the Convention itself. Unfortunately, only 17 of the

47 member states have ratified this instrument and the Parliamentary Assembly has very strongly recommended that governments go ahead and ratify this Protocol.

Another key instrument is the Framework Convention for the Protection of National Minorities. There are many more parliaments that have ratified this convention, but there are still some that have not. There are some countries that recognise only religious minorities and do not want to see other real dimensions of minorities in their societies. We hope that it will be possible for those countries too to ratify this absolutely crucial convention which is aimed at protecting the individual within the national minorities, rather than recognising the minority as a very special group. It is a human rights document and it should be possible now for every parliament to ratify this convention.

We also promote economic and social rights and we have a special Charter on social rights. Many of the member states have ratified this charter in its revised form, but there are still some that have not. In the current situation in which, as a consequence of the economic crisis, there are growing problems for vulnerable groups in society, especially poor people, it is particularly important to defend social and economic rights.

Second, the approval of human rights plans and strategies.

An increasing number of governments submit to parliaments strategies in various fields, on racism, children, on women's rights, and ask them to adopt these strategies in order to help the executive implement an effective anti-discrimination policy. This should be encouraged.

We should also encourage an attempt to be more systematic about planning and implementing human rights. The issue of human rights is not merely something that we talk about, it should be about changing reality. For this we recommend – and some have done so, but not the majority – that parliaments adopt a national plan for the implementation of human rights based on an analysis of where the problems actually are in our society. This means moving on from a theoretical approach to a more practical one, with a national plan for the protection of human rights and the prevention of discrimination.

Third, state budgets

Perhaps this is the most important part. When parliaments adopt their budgets, it is absolutely crucial that an attempt is made to translate the proposal for the budget in terms of what impact it will have on vulnerable groups. How does the budget contribute to protecting the interests of these groups? Unfortunately, when there is a budget crisis, cuts tend to be made in social welfare, education, etc., areas which are absolutely crucial for avoiding discrimination, at least among vulnerable groups in society. There are some attempts now, before the final budget is adopted, to analyse the impact on the most vulnerable groups in society. There are some interesting models that could be discussed in other countries as well.

Finally, control of the executive

This is monitoring the way in which the executive and the administration carry out what has been decided. There are of course procedures such as votes of no-confidence, but perhaps the most important means of ensuring that the intentions are carried through is by means of a system of ombudsmen, such as is found in many countries in Europe. This system provides signals not only to the executive, but also to parliament, of problems in society which ought to be addressed. It would be valuable for ombudsmen themselves to go to parliament at least once a year to present their report, answer questions and try to bring in their wisdom and their experience to the discussions in parliament. In some countries, there are also equality bodies. It is important to ensure that there is co-ordination and co-operation between the various bodies of this kind (equality bodies, national human rights institutions, etc.).

There is no ideal model that the Council of Europe can suggest. It is for each country to find its own solutions and the path to follow. But a system of this kind would be very useful for parliaments

in order to be alerted promptly to problems in society, in particular when it comes to groups that are discriminated against.

These are the key points that we would like to bring to the discussion here. I would like to stress again that parliaments are so crucial in this regard. When there are minority representatives in parliament, that helps the discussion and brings another dimension to some of the debates. In the recent elections in Europe, there has also been the problem of groups that have obtained seats in parliament from the more extreme side which tend to be against any move to prevent discrimination – racist tendencies in some cases. And that, of course, complicates the situation in parliamentary discussions. This is one more challenge that democratic parliamentarians have to face today, which makes their work even more important than before.

To conclude, a real democratic parliamentarian must be a human rights defender.

### **The Chair**

Thank you very much, Commissioner, for your contribution which should prompt us, as politicians, to take initiatives within our respective parliaments.

We now come to the general debate. I would like to remind you that unfortunately speakers are limited to five minutes. The first speaker on the list is Mr Trajko Veljanoski, Speaker of the Sobranie of “the former Yugoslav Republic of Macedonia”.

### **Mr Trajko VELJANOSKI, Speaker of the Sobranie (Republic of Macedonia)**

Discrimination is as old as humanity. Most often, it is manifested in its most severe forms in discrimination based on race, ethnic origin or religion. However, we should not forget the other forms of discrimination, such as the violation of human rights and fundamental freedoms. Following the terrible experience of the Second World War and the founding of the United Nations, and later with the birth of the Council of Europe, many international documents have been adopted which should offer protection against discrimination on whatever ground. This is a generally accepted standard and a binding obligation on all countries. Bearing in mind that our parliaments have ratified these documents and passed our laws, we have a clear duty to protect everyone against all forms of discrimination.

The Republic of Macedonia is a unitary state but it is also a multicultural, multiethnic and multifaith society. Which is why I would like to say a few words about the situation of the different ethnic communities, about the construction of a society within which no-one would feel discriminated against simply because he or she belongs to a minority and not the majority, the Macedonian nation. Clearly, everything begins with a regulatory framework, the Constitution and the laws, ensuring the full integration of all communities, and guaranteeing protection against all forms of discrimination, part of the corpus of international standards and Council of Europe recommendations. Last year, we passed a law along these lines.

Two working groups in the Assembly of the Republic of Macedonia are addressing this issue.

The first is a Standing Inquiry committee for Protection of Civil freedoms and rights, which citizens may contact and submit their complaints to if they feel that their rights have been violated or that they have themselves been the victim of discrimination.

The second is the Committee on Inter-Community relations, whose remit is to review all issues relating to the ethnic communities and come up with solutions. The Assembly is then obliged to take a decision on their proposals. This is why one of the priorities of the Macedonian Chairmanship of the Committee of Ministers of the Council of Europe is to focus on the protection and full integration of national minorities. This, I repeat, is one of our priorities. The Republic of

Macedonia has very high standards and has achieved excellent results in the field of preventing discrimination on the grounds of racial, ethnic or religious affiliation, and in the field of integration of minorities and ethnic communities. We are ready to share our experience with you, and also to learn what is being done better elsewhere.

Our responsibility as parliaments does not end with the passing of laws, particularly in such a sensitive area. Parliament's scrutiny role is also of paramount importance, especially bearing in mind the fact that discrimination, on whatever ground, can be very subtle. This is why, as parliaments, we need to step up our co-operation with the non-governmental organisation sector, with the ombudsman and with other institutions. But we must also learn from other countries. We should remember that discrimination is often the result of stereotypes and prejudice.

I am sure that you will all agree with me that we cannot combat prejudice through legislation alone. We must all be involved in building up a political culture, beginning in our homes and the education system. That means constructing a system of values on the basis that we are all equal and that we are all human beings. In other words a system of values which will lead to mutual respect.

### **Mr Josep DALLERES CODINA, Speaker of the General Council (Andorra)**

The principle of non-discrimination, which is fundamental in international law, requires all states to ensure, on the one hand, the equality of all individuals before the law and, on the other, that everyone enjoys the protection of the law. Furthermore, it prohibits discrimination on the basis of a non-exhaustive list of categories – race, religion, gender, etc.

However, above and beyond what is enshrined in Article 14 of the European Convention on Human Rights and Protocol No. 12 which Andorra has ratified, and over and above the provisions of constitutions – the Andorran constitution incorporates the Declaration of Human Rights – and laws, the legitimacy of institutions has to be constructed on the basis of day-to-day activity, in particular by the extent of commitment in the promotion, defence and exercise of those rights.

At national level, we highlight the position of ombudsman whose role is to defend fundamental rights and freedoms and ensure that they are applied in practice. In Andorra, the text of the law is currently being amended to include the protection of children's rights.

In Andorra, the ombudsman is appointed by the General Council, ie the Parliament, to which he or she presents an annual report.

However, even though the principle of non-discrimination is linked to various institutions, the role of parliaments is undoubtedly essential insofar as it is parliament which passes the relevant legislation and, where necessary, allocates the resources needed to implement those policies effectively.

I shall refer only to four initiatives taken by our parliament in recent years to counter discriminatory practices:

- acquisition of citizenship;
- the fight against gender-based violence;
- recognition of stable partnerships, regardless of the partners' sex;
- respect for religious diversity.

Andorra has, over the centuries, always been a country of emigration. It was only beginning with the Spanish civil war and, especially, since the Second World War, that we have become a country of reception. Andorra is a country which was used to seeing its children leave, and its law afforded them protection, with Andorran nationality being lost only after the third generation born outside the country; in turn, foreigners were not entitled to acquire Andorran citizenship until the third generation born in the country. This rule, which had satisfactorily regulated migratory movements until the mid-20<sup>th</sup> century, proved unable to solve the new migration situation, and between 1936

and 1963, Andorra saw a tripling of its population, and a reduction in the percentage of indigenous Andorrans from 87% of the population to 33%, then to 27% in 1972 and 19% in 1990.

It was only with the passing in 1995 of a new Citizenship Act that this trend was reversed: the percentage of indigenous Andorrans among the population has since then been constantly rising and currently stands at 38%. Accordingly, a topic that for years had been taboo, slowly began to be discussed and it should be noted that two of the four heads of government serving in Andorra since the 1995 Constitution were not Andorran citizens in 1970. It would be rash, unjust and wrong to state that they were worse, or better, than the other two for that reason.

If we look at the composition of the parliament today, we see that 50% of parliamentarians, all groups combined, could not have been members under the laws in force between 1970 and 1980.

I have no doubt that we are on the right track and a further amendment is planned for this year.

With regard to the fight against gender-based violence, our current criminal code, adopted in 2005, has so far been amended twice – in 2007 and 2008, incorporating virtually all of the recommendations of the Council of Europe's Parliamentary Assembly.

The third point concerns legislation on stable partnerships, whether same-sex or not. Our legislation today recognises three types of partnership: religious marriage having civil status, civil marriage and civil partnership. All three have the same rights and everyone is entitled to opt for whatever suits him or her best.

The only difference is to be found in the law on adoption, which has not been debated in recent years, no doubt because the current text, which is older than the legislation I have just mentioned, allowed, in practice, for single-parent adoption. No doubt, however, this is something to be addressed in the not too distant future.

Lastly, an issue which has not yet been the subject of legislation concerns the freedom of religion and worship, which our Constitution acknowledges and which exists in practice. The government has undertaken to present a text on this issue during the next session which begins in September.

To conclude, I think it is important for there to be mechanisms of reflection and collaboration between international organisations and national parliaments to ensure that with each passing day non-discrimination becomes a tangible reality in our day-to-day lives, wherever we may be, wherever we may go. Only then will we be genuine fully-fledged citizens of the world.

### **Ms Tarja FILATOV, Second Deputy Speaker of the Eduskunta (Finland)**

People are different, but the function of politics is to ensure that all are treated equally.

International human rights treaties oblige states to put in place legislation and other regulations which safeguard the rights of minorities and prevent discrimination.

The monitoring of minority rights both universally and in our own countries can take the tangible form of regular reporting and the issuing of guidelines.

Organisations, which represent different minority groups play an important role in the effort to improve the status of minorities. They can alert the authorities to the existence of inequalities and point out possible solutions. They also represent the views of civil society and are active in the debate on the status of minorities.

I wish to raise the status of the Roma because they are the EU's largest minority and because there is much regarding their situation that needs to be improved.

Mobility is an integral part of the Roma way of life. This is not always mobility for its own sake as it may be the result of being shunned by the majority population. Unfortunately, there is a long tradition of intolerance towards the Roma. But it is imperative that the enlightened societies of the 21<sup>st</sup> century do away with discrimination and promote the participation of all population groups.

It is wrong that the Roma are forced to migrate from country to country in order to make a livelihood as beggars. Prohibiting begging is not an appropriate solution, and we should instead focus on removing the reasons that lead people to beg.

The educational opportunities open to the Roma must be improved. This must be done in a way that helps them reach an equal status with the majority population, otherwise education will be viewed as pointless.

Job discrimination and all other forms of inequality must also be the target of strict intervention.

In the Finnish Parliament we are waiting for a government proposal on the first National Policy on Roma. The Roma are one of the so-called traditional minorities in Finland. The National Policy on Roma has been prepared by a broad-based working group consisting of representatives of authorities, research institutes and the Roma in Finland.

The vision of the programme is that Finland will by 2017 be a forerunner in Europe in promoting the inclusion and equal treatment of the Roma.

The starting point in the Policy on Roma is that the present legislation and service system should create a good foundation for promoting the equal treatment of the Roma population.

Furthermore, special measures are needed at all levels of authorities to reach the goal of inclusion and de facto equal treatment of the Roma.

One of the principles of the policy is also to reinforce the Roma population's active involvement and functional capacity by making use of their own strengths.

Another issue I would like to raise concerns the Sami people. The Sami are the only indigenous people of the EU. The Sami living in Finland have autonomy in their homeland in matters covering their language and culture. To manage the tasks involved in autonomy, the Sami elect a Sami Parliament from amongst themselves in a direct election for a term of four years.

The central issue in Sami culture is the preservation of the three Sami languages. Provisions on the language rights of the Sami are contained in the Sami Language Act, and there are also provisions on basic services in other acts.

It is especially important that children living inside and outside the Sami homeland can study their own language or receive basic education in the Sami language.

Sami children must have the same statutory right to day-care in their mother tongue as Finnish speaking children. It is essential that in their homeland the Sami have the right to Sami language health care services, services for the elderly and basic education.

These are crucial goals but we need to make every effort to ensure their application in practice.

There are, naturally, other minorities who need special attention, particularly those people who belong to several vulnerable minorities.

Finland has enshrined a ban on discrimination in the Constitution and this prohibition has been supplemented in the Criminal Code, the Equality Act and the Non-Discrimination Act. We have also the Minority Ombudsman, Ombudsman for Gender Equality and Ombudsman for Children. We have introduced different programmes for antidiscrimination.

We have done a lot but we must do more.

**Mr Pal SCHMITT, Speaker of the Országgyűlés (Hungary)**

Perhaps you will be more interested in hearing my opinion on the rights of the opposition since Hungary is the only country in Europe with a two-thirds majority gained by one party in the recent elections. But I have chosen the second theme, which is equally important.

I am especially pleased that three weeks after my appointment as Speaker I can meet you all here in this beautiful island. First, I would like to talk about Hungarian non-discrimination regulations, then about compliance with international human rights rules and finally about the Hungarian parliament's practice.

Less than a month ago, a centre-right government was formed following the general election held in April. The elimination of all forms of discrimination is an important item in the programme of the new government. The constitution of the Republic of Hungary guarantees human rights and civil rights for all persons within its territory without any kind of discrimination such as on the basis of race, colour, gender, religion, political or other opinions, national or social origins, financial situation, etc. Any person applying discriminatory treatment on any of these bases is subject to serious penalties. Hungary harmonised its anti-discrimination law with the recommendations of the Council of Europe, EU directives and the case-law of the European Court of Justice by passing an Act on equal treatment and the promotion of equal opportunities. The Act on equal treatment is a general law which includes rules to prohibit discrimination against all disadvantaged groups. If the principle of equal treatment is violated, people can submit their claims to civil or labour courts; they can petition the equal treatment authority or the Hungarian labour inspectorate or they can go to the authorities responsible for examining administrative infringements.

Persons whose rights have been violated may also contact the general ombudsman or the ombudsman for national or ethnic minorities, who is in fact the parliamentary commissioner for civil rights. They may also seek help from lawyers working in the anti-discrimination service.

The report drafted by the Council of Europe's secretariat regarding positive discrimination is an interesting one. Mr Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, expressed his satisfaction that the number of Roma police officers will be increased from 70 to 300. He also welcomed the plan for 300 Roma with college degrees to join the civil service.

Our Finnish colleague said that Roma represent around 15 million citizens in Europe, being the largest minority group in this continent. Their integration is therefore of vital importance in order to build a stable society in each country concerned. As a sign of strong determination, the new Hungarian government has set up a separate state secretariat responsible for Roma integration in the ministry of public administration. In my country, there are about 500 to 700,000 Roma citizens. The new government also plans to give parliamentary seats to minorities and therefore guarantee them representation in parliament. Consequently, the newly elected parliament recently amended the constitution to reserve 13 seats for minorities on preferential terms for the next general election. This is especially remarkable because at the same time, it was decided to reduce the number of seats from 386 to 200.

The principle of non-discrimination, which is generally regarded to be an effective means of combating discrimination is now an integral part of the Hungarian legal system. Protocol No. 14 to the European Convention on Human Rights which entered into force on 1 June 2010 has been promulgated in Hungary, which has also signed Protocol No. 12. Hungary has from the very beginning supported the anti-discrimination proposals to be adopted under the renewed social agenda.

In the Hungarian parliament, the committee responsible for dealing with the majority of discrimination and equal opportunities issues is the Committee on human rights, minorities and

civil and religious affairs. Over the past 12 years, the committee has set up a sub-committee on women's rights and a sub-committee on equal opportunities for men and women. In addition, the Committee on education and science, and the Committee on human rights have set up sub-committees on equal opportunities and integration in schools.

There are other parliamentary committees also actively involved in efforts to combat discrimination, such as the sub-committee on equal opportunities for people with disabilities and the sub-committee on rehabilitation. Also, a parliamentary Day of People with Disabilities has been organised on a number of occasions.

In accordance with a parliamentary resolution, the Minister for Justice must report annually to the parliamentary committee's on these subjects. The Committee on human rights hears from the Chair of the equal opportunities authority once a year and the Committees on employment and social affairs hear from the Chair several times.

NGOs focusing on equal opportunities and anti-discrimination also take part in the work of the committees. The Committee on human rights has built an excellent working relationship with the Council of Europe information centre, accommodated in the building of the parliament, and it regularly takes part in events organised by this centre, for example regarding equal opportunities for people with visual disabilities.

I am convinced that it would be impossible to engage in such diverse activities without the assistance with the Council of Europe and its Parliamentary Assembly and I would like to take this opportunity to express my gratitude for this valuable co-operation.

**Mr Fritz NEUGEBAUER, Second Speaker of the Nationalrat (Austria)**

Austria regards the fight against racism, discrimination, xenophobia and intolerance as an absolute priority. We are committed to protecting against discrimination at both national and international level.

I believe that almost all the constitutions of Europe, and Austria is no exception to this, fully enshrine the concepts of human rights, equal treatment and a rejection of discrimination. However, Austria is the only country where the European Convention on Human Rights has been raised to the status of constitutional law. The judgments of the European Court of Human Rights are therefore something which we take very seriously into account.

The ombudsperson has a fundamental role to play. We have a Constitutional Court and committees on equal opportunities. In the civil service, there are numerous instruments offering a genuine guarantee of rights. Above and beyond the written texts, what happens in practice? Since last January, Austria has put in place action plans, with the aim of promoting awareness and setting out practical instructions for action. For example, in the training of future civil servants, a module on human rights will ensure greater familiarity with this area.

In addition, a whole series of projects have been designed for police and justice officials.

We also attach considerable importance to awareness-raising among young people, especially adolescents. We are therefore focusing on teacher training, attempting to boost their intercultural skills and helping them to raise youth awareness of the problem of racism.

Parliament has held plenary sessions on various topics relating to human rights, human dignity and the fight against discrimination. Parliament has a "democracy workshop" for young people from age 10 upwards together with their teachers, showing them the mechanisms of democratic decision-making. But in addition, these young people are, deliberately, introduced to situations of intolerance, the idea being to make them realise that human dignity must be upheld in all circumstances.

Ratification of the Protocol has given rise to many in-depth discussions. We believe that both the former and current practices of the European Court are very important and we take them very seriously.

Having the good fortune to be part of the Parliamentary Assembly of the Council of Europe, we are fully aware of the importance of combating discrimination in order to preserve human dignity, not only in theory but also as the foundation of all our societies.

***Mr Mevlüt Çavuşoğlu took the Chair***

**Mr Marios GAROYIAN, Speaker of the House of Representatives (Cyprus)**

I would like in my turn to greet the previous speakers and congratulate them for their very useful interventions. They will enable us, at the end of this collective work, to convey to our citizens the message that the elimination of all forms of discrimination and exclusion is an issue that concerns them directly and that any violation of non-negotiable human rights infringes not only their collective rights, but also upon their individual human rights.

The principle of non-discrimination is a fundamental component of democracy and an integral part of international and European law. Consequently, the ratification and implementation of Protocol 12 to the European Convention on Human Rights by all member states of the Council of Europe should be completed immediately, irrespective of the existence of a progressive national or European legislation against discrimination, which obviously operates in a complementary manner.

Undoubtedly, there is a large gap between the declarations that are included in European and international law and the real situation of human rights in each country. Corruption, the lack of financial resources and intolerance to what is different constitute the main inhibitory factors in the effective struggle against discrimination. Consequently, it is necessary that each country works out targeted strategies, according to the size of the individual problems it faces as regards the protection of human rights, with a view to controlling phenomena undermining human dignity.

As national parliaments, it is our duty to legislate by making it a rule to maintain and strengthen the principle of non-discrimination and continuously revise relevant legislative regulations, as well as existing protective measures. In a modern society, there is no place for exclusion. A society is humane and strong only when it is able to give equal opportunities to all its citizens, irrespective of their racial or ethnic origin, religious or other convictions, disabilities, age or gender.

The strengthening of institutions, the competences of which concern the struggle against discrimination, is of utmost importance. The Office of the Commissioner for Justice of the Republic of Cyprus carries out considerable work in this direction, particularly after the establishment of the Authority against Racism and Discrimination, as a result of an effort to combat the phenomenon of racism and discrimination in Cypriot society.

The House of Representatives has played a decisive role by adopting relevant legislation. It continues its contribution, through its henceforth institutionalized relationship with these authorities and officials, in the form of a two-way control for the benefit of the citizens.

Cyprus attaches special importance to the protection of human rights and respect for international and European law. Universal principles and values, such as respect for human life and dignity, as well as the fundamental freedom of citizens, peace, territorial integrity, sovereignty and independence have unfortunately been trampled upon in the case of my country.

At this point I would like to make a special reference to the predominantly humanitarian issue of the missing persons of Cyprus. It is an inherent human right of their relatives, who continue to live in constant agony and anxiety, to be informed about the fate of their loved ones. In order to

investigate these cases, it is imperative that the relevant judgments of the European Court of Human Rights be complied with.

The international community is called upon to react, by avoiding the logic of double standards. It is called upon to work with determination, above all towards the protection of human rights and the safeguarding of the rule of law, beyond economic and geopolitical interests. It is called upon to contribute substantially to the restoration of the rights of the whole people of Cyprus. All long-standing conflicts, whether it concerns the Cyprus question or the Middle-East problem, have to be solved, on this basis, with strict compliance with the relevant United Nations resolutions and international law, in accordance with human rights and the principle of non-discrimination.

Within the framework of the exercise of parliamentary control, parliaments should moreover be vigilant, so that governments fulfil their objectives and commitments, specifically with regard to the rights of the most vulnerable sections of society.

In conclusion, allow me to underline the importance of not being complacent and of intensifying our efforts against all forms of discrimination. The fulfilment of this aim requires the commitment and contribution of all of us, regardless of office, regardless of country, regardless of religion, regardless of any philosophical or other points of view.

### **Ms Dusanka MAJKIĆ, Speaker of the House of Peoples (Bosnia and Herzegovina)**

I would like to say a few words about a judgment of the European Court of Human Rights which has attracted the attention not only of experts but also the public at large. I am referring to the Sejdic and Finci versus Bosnia and Herzegovina case.

To begin, it was the first Court case dealing with general non-discrimination, set forth in Article 1 of Protocol No. 12.

Second, it is a case which concerns the very core of the internal structure of Bosnia and Herzegovina, i.e. the structure of a state which was created in Dayton based on a very sensitive balance mechanism between the national interests of the three constituent peoples of Bosnia and Herzegovina.

Third, Protocol No. 12, the first article of which concerns general non-discrimination, relied upon by the applicants in this case, has been ratified by only 17 Council of Europe member states whereas 30 countries have opted not to go ahead, in view of the possible consequences of ratification.

The applicants in this case are of Roma and Jewish origin, and their applications, submitted in July and August 2006 respectively, are based primarily on the claim that the Constitution of Bosnia and Herzegovina and the 2001 electoral law prevent them from being candidates for President or member of parliament, solely on account of their ethnic origin, which in their view was discrimination, constituting a violation of Article 14 of the Convention, Article 3 of Protocol No. 1 regarding Parliament and Article 1 of Protocol No. 12 with regard to the Presidency.

Today in Bosnia and Herzegovina, 14 years after the end of the war, there is no possible common approach regarding constitutional amendments; there is not even a single approach to implementation of this judgment. The Council of Ministers, as the representative of the executive of Bosnia and Herzegovina, has set up a working group to carry out the action plan and implement the Court's judgment. This working group comprises 13 members with representatives from both houses, three government ministers and is to be supplemented by experts in constitutional law and NGO representatives.

The working group's task is to propose amendments to the Constitution and the electoral law. Bearing in mind that general elections are to be held in Bosnia and Herzegovina next October, it is likely that this work will continue, under the auspices of the government, after the elections. Will it be possible to reach an agreement on implementation of the judgment? The question remains

open. It will be a difficult and serious task which our politicians need to solve. But it is important to point out that there is no absolute consensus on the necessity of doing so and no single opinion on how it should be done.

In order to come to this conference, we were obliged to obtain visas, and I must say that our citizens hope that they will soon be exempt from this formality. I do not think this is an unreasonable request, since we have deserved it by fulfilling the conditions laid down.

### **The Chair**

As you know, the Parliamentary Assembly fully shares your view on the visa regime.

### **Mr Volodymyr LYTVYN, Speaker of the Verkhovna Rada (Ukraine)**

Since 2 November 1946 when the United Nations General Assembly first raised the issue of persecution and discrimination, the international community has come a long way in identifying and eradicating this evil, which has now taken on a clear international dimension. Nonetheless, that first resolution avoided the issue of defining discrimination because the members of the General Assembly committee could not reach a consensus on which violations of rights could be defined as constituting discrimination and merely stated that it was necessary to put an end to religious and racial persecution and discrimination.

A similar situation was repeated in the drawing up of the Universal Declaration of Human Rights in 1948, which mainly speaks of equality, equality before the law and the possibility for every individual to enjoy their rights without any distinction. Only Article 7 refers to discrimination or incitement to discrimination, but only as regards the equal protection of individuals against its manifestation, but Article 23 bans another form of discrimination under the banner of equal pay for equal work.

Until the 1960s, the concept of discrimination was limited to two criteria in its application: first of all in specific regions, especially the southern part of Africa or territories which were not self-governing or under trusteeship, and second, in specific areas, such as education, employment and political rights. With the adoption of the European Convention on Human Rights in 1950, for the first time talk began in the global context of the need to provide reliable safeguards against discrimination. The international agreements which followed at world or regional level first of all enshrined the principle of non-discrimination as imperative norms in contemporary international law applicable to all legal persons and at all legislative levels.

However, it would not be an exaggeration to say that an effective prohibition of discrimination would be impossible without the support of national legislation.

Ukraine has, moreover, contributed to consolidating this principle.

First, we have ratified practically all the international agreements in this sphere and in so doing we have incorporated the international standards of the principle of non-discrimination into our domestic legislation.

Second, in order to implement effectively these international agreements, we have passed a whole set of additional laws and regulations. For example, in 1985, following ratification of the 1970 UN Convention on the elimination of all forms of discrimination against women and the optional protocol to that convention, our assembly passed a law on this issue.

Third, non-discrimination provisions have been included in several laws devoted to this question.

Fourth, in order to combat the adoption of provisions which might be deemed discriminatory, we have set up a procedure requiring all bills tabled to be referred for expert legal assessment. If they

contain provisions that violate the principle of non-discrimination, the relevant parliamentary committee must draw up an unfavourable conclusion on the substance of the bill in question.

In Ukraine, we have put in place relatively effective judicial and non-judicial mechanisms to uphold citizens' rights deriving from the principle of non-discrimination. The effectiveness of these mechanisms can be seen from the fact that in twelve years, since the adoption by Ukraine of the European Convention on Human Rights, over 20,000 applications have been submitted to the Court by Ukrainian citizens, but none of the complaints related to Article 14 or to Protocol No. 12.

Discrimination is sometimes difficult to identify, as it is something that can be concealed in abuses of rights, denials of justice or miscarriages of justice. As yet, it is too early to say that we have eliminated discrimination at international or national level. Occasionally, there is an intention to interfere with the enjoyment of a right, as in the case of a refusal to grant a visa, but sometimes it is not as clear-cut as that. It can be a refusal to sanction a marriage because of religious affiliation, the refusal to employ a person who has AIDS, who does not know the language or who belongs to a particular political party; it can be the failure to issue a licence or to grant certain privileges according to the post occupied.

In almost all legal systems, the focus today is primarily on punishing the offender in the case of a violation of rights. But in order for that punishment to comply fully with fundamental human rights, the international community and states have included in their legislation a series of regulations relating to the treatment of offenders in prison. Everything is laid down: the amount of space to be allocated to them, access to libraries, newspapers, exercise, daylight, etc.

Obviously, prisoners should not be humiliated, but when are we going to start paying more attention to the treatment of victims? In order to restore their rights, it is not enough for victims to see their aggressors brought before the courts. Very few people are interested in the fact that victims are denied the rights which nevertheless are guaranteed to offenders. Is this not another example of discrimination?

We need to rethink our approach to fighting crime and ensure that the restoration of victims' rights is not limited solely to punishment of the offender. We cannot but be concerned about the fact that the application of these new human rights approaches, and we are seeing this more and more frequently, is sometimes at the expense of the moral pillars of society. Some topics, which are often very sensitive for society, such as same-sex marriage, the rights of transsexuals, drug addiction, euthanasia and others are dealt with in a clearly biased way which is redolent of discrimination.

Of course, there will always be differences of treatment within society, but it is essential that this does not constitute a violation of the principle of equal treatment as enshrined and understood in international law. There may be differentiated treatment if such is justified objectively and reasonably. Differences in treatment are provided for in the Convention if they are in pursuit of a legitimate aim, but Article 14 is deemed to have been violated if the means used are disproportionate to the aim pursued.

The lesson to be learned is perfectly clear: full compliance with human rights and freedoms, in accordance with the principles and standards universally acknowledged by international law, must take place within the strict provisions of domestic law.

### **Ms Rodoula ZISI, Deputy Speaker of the Vouli Ton Ellinon (Greece)**

The Universal Declaration of Human Rights, signed on 10 December 1948, described in detail for the first time the civil, political, economic, social and cultural rights to which every citizen is fully entitled. Since then, many debates have been held, major efforts have been exerted at local, national and international level, and many problems have been solved, but other complex problems have arisen. The international community, international organisations such as the Council of Europe, states, governments, parliaments, NGOs and citizens on an individual basis,

have all used the resources at their disposal to fulfil the fundamental objective, which is very difficult to achieve, namely upholding, protecting and implementing human rights for all.

Upholding human rights means that no state may deprive citizens of their human rights. Protecting human rights means that every state is obliged to protect peoples, individually and collectively, against any form of violation. And implementing human rights means that all states must take every necessary measure to ensure that everyone can benefit fully from these human rights. I wish to stress that human rights must be enjoyed by all human beings.

The word "all" is particularly important and has been emphasised, especially since 1960 by the Council of Europe. The Council has promoted the principle of non-discrimination in a number of protocols, and especially Protocol No. 12 to the European Convention on Human Rights. We should not forget that this principle is closely linked to that of equality, insofar as both are fundamental for human rights.

There are many areas that we could look at, but as a woman, I trust you will allow me to begin with a particularly sensitive subject: discrimination against women, girls and children in general. Let us not forget that today is International Day against Child Labour. This is a very important topic. Following the Convention on the elimination of all forms of discrimination against women, the Beijing Declaration and platform for action, the states signatories have adopted a series of measures to combat this phenomenon.

In Greece, we have set up a standing committee on gender equality, a mechanism for social dialogue monitoring, comprising an equality secretariat which is the competent authority for promoting equal opportunities in all sectors of public and private life.

The action plan focuses on four areas: employment, education and prejudices, prevention of and combating violence against women, and participation of women in decision-making. The Greek parliament has set up a special standing committee on equality, youth and human rights. One of the committee's objectives is to make proposals for the implementation of these rights, with due regard for the principle of gender equality, particularly in the employment field. The Greek parliament has very close links with these standing committees, with the equality secretariat and with NGOs active in this sphere.

We are attempting to take into account the principles of non-discrimination deriving from the protocols. We have not yet addressed all the areas, but have already been active in a number of legislation fields: equal treatment, equality in the work place, the public and private sphere, women with large families, women who have adopted children, etc. So our parliament has focused on an important part of human rights.

In all the work carried out by the Greek parliament, the protection of children and migrants is fundamental. The protection mechanisms and programmes at regional, national and international level are also important. We need to strengthen them in the field of protection of young people, abandoned or neglected children, victims of sexual or financial exploitation, child victims of pornography or prostitution, migrant children, child refugees, children in war situations or victims of disasters, whether natural or the result of human activity.

Speaking of young people leads me to raise another issue: human trafficking. According to Interpol, trafficking in women for sexual exploitation is continuing relentlessly and there is also a significant increase in human trafficking for forced labour. Mention must also be made of children exploited by their own families. Under the European Union's international action plan to combat human trafficking, our country has set up its own plan of action focusing on the dismantling of criminal networks, arresting the perpetrators and assisting the victims. This is an objective of both governmental and non-governmental bodies. We are focusing on three areas: prevention, protection and prosecution. A parliamentary working group has also been set up and there is co-operation with the International Organisation for Migration.

I would add that we intend to monitor the assistance given to recognised victims, press ahead with prosecutions and provide training for the staff involved.

As speakers of parliament, let us not forget the key role that falls to us in the fight against all forms of discrimination on the ground of gender, race, sexual orientation, religion, disability of whatever sort – I am referring to people with disabilities or people who do not have the same capacities, who are excluded in education, society, the work place or culturally. National parliaments must legislate in order to eliminate all forms of discrimination and review national legislation with the aim of repealing any discriminatory laws.

People belonging to minority groups must be able to enjoy their fundamental rights and freedoms. In this connection, we should always keep in mind the Vienna Declaration, and the Declaration of Human Rights, with regard to people belonging to national, religious, ethnic or linguistic minorities. These people should have the right to develop their culture, practise their religion and use their language both in public and in private.

All citizens and all social institutions in our countries must fully uphold these principles. NGOs play a key role in bringing matters to our attention, raising our awareness and providing us with relevant information concerning human rights and fundamental freedoms. The media also have a prime role to play in relaying information on human rights and humanitarian issues. At present, we are in the midst of an economic and financial crisis. Can the crisis be resolved other than by engaging in solidarity, upholding human rights and demonstrating tolerance? We, members of parliament, must fight to ensure that these principles are upheld; we must be the custodians of these principles for future generations.

Colleagues, diversity occupies a major place in our common heritage and in our common destiny.

**Mr Vannino CHITI, Deputy Speaker of the Senate of the Republic (Italy)**

This year, the human rights situation in Italy is being reviewed by the United Nations Human Rights Council. As you will be aware, this procedure was launched in 2006 and all countries are subject to this procedure by rotation. I think that this is fully accepted by all since no country can automatically lay claim to a clean bill of health. Every country can improve its human rights legislation and practices. It is extremely important to take on board the criticisms made in all areas. I agree with the idea that we have to pay close attention to our acts and thereby make progress.

We have various institutions specifically dealing with human rights, covering a large number of areas, in particular the office to combat racial discrimination. We comply fully with the Council of Europe's Protocol No. 12 and believe that it is a text of fundamental importance. Italy intends to implement Article 1 of this Protocol and thus have precise instruments to combat all forms of discrimination.

I would like to mention in particular the office to combat racial discrimination which works to ensure equal treatment and combats all forms of discrimination based on racial or ethnic origin, the advisory committee on religious equality, set up in 1997, the committee to prevent female genital mutilation and the interregional committee to support victims of abuse and exploitation.

Italy has ratified most of the major international anti-discrimination conventions and has launched a strong political initiative in this field, even though there is always room for improvement. Our constitution lies at the very heart of this commitment. Article 3 of the constitution provides that all individuals are equal in rights, condemns all types of discrimination and assigns to the Republic responsibility for eliminating all obstacles preventing people from full enjoyment of this equality.

Although the situation in our country is relatively good, we are not entirely satisfied and we would like to thank the Human Rights Committee in Geneva for having drawn our attention to a number of problems.

The recently enacted law on immigration certainly contains some provisions which could be improved. Between 1998 and 2008, the number of foreigners living in Italy trebled and Italy, which had previously been a country of emigration, became in a short space of time a country of immigration. It is not enough simply to have effective legislation and to adopt appropriate behaviour, it is also a question of education at school, and of the responsibility of all institutions, whatever their political orientation. It is essential to have a consistent and effective European reception policy. Each country, on an individual basis, must integrate those foreigners living and working in their territory. Jus sanguinis should make way for jus solis, on the basis of rights and obligations for all citizens, whether or not they were born in the country. This is the only way of establishing a sound basis for our civil society. We need appropriate legislation for the right of asylum, for both political and environmental reasons. We should, for example, strengthen the Frontex agency.

A further key point is the situation of Roma and Sinti communities in Italy. This is a difficult problem in our country and throughout Europe. There is a lack of comprehension which often equates to discrimination. We now know what needs to be done and I hope that the Italian government will take heed of the comments made in order to move forward. We must undertake to improve more effectively the human rights of all citizens, without exception. A human rights committee has been set up in the Senate and is currently working on a report on this issue. I believe that we can place our full trust in this committee. As Mr Hammarberg said, in times of crisis, it is essential to focus on the measures taken by different countries to improve people's situation and to understand that the steps taken will also have budgetary consequences. In order to assist the Roma and Sinti we have been working closely with organisations and associations specifically dealing with them and we hope to complete this work by the end of the year, enabling us to produce a report which will be of considerable value for parliament and the executive. We hope that this will help them make progress in the future. This is our hope and our commitment.

In addition, I would like to stress that in my view this is not only an Italian problem. We should also work with the media. They have a very decisive impact on the public at large and should play a more positive and more effective role. All too often they prefer to concentrate on sensationalism and we should call on them to play their proper role and nurture a sense of hope in the future.

#### **Mr Mihai GHIMPU, Speaker of Parliament (Moldova)**

Respect for human rights and fundamental freedoms is a constant concern for the Republic of Moldova. It has undertaken to modernise its domestic legislation, adapting it to the standards and principles of international law, including in the field of non-discrimination. What is relevant here is the incorporation of international law in internal practices, the transposition of international standards regarding the protection of human rights and liberties into legal standards and requirements in national law.

For the Republic of Moldova, the question of the elimination of all forms of discrimination has taken on a new dimension since the ratification by parliament of international human rights instruments, including the Universal Declaration of Human Rights and its additional covenants, the European Convention on Human Rights, the Convention on the elimination of all forms of racial discrimination, the Convention on the elimination of all forms of discrimination against women, the Convention on the Rights of the Child, and many others.

These legal instruments have given an international dimension to the problem of protecting human rights and have consolidated the domestic legislative framework which prohibits discrimination on the grounds of race, nationality, ethnic origin, language, religion, social category, opinion, gender, political affiliation or any other criterion which results in a reduction or restriction of the equal exercise of human rights and fundamental freedoms, or the rights recognised by the law in the political, economic, social and cultural fields or any other area of public life. Bearing in mind the need to improve regulations on non-discrimination, parliament passed the law on equal opportunities between women and men which ensures the exercise of equal rights between

women and men in the political, economic, social and cultural spheres, the law on persons belonging to national minorities and the legal status of their organisations, designed to promote policies for the protection of the rights of minorities.

The Republic of Moldova is doing all it can to put in place effective mechanisms to prevent and eliminate all forms of discrimination. The government is in the final stages of drafting a bill on preventing and combating discrimination, following eight years of a communist government. The Republic of Moldova is seeking to create mechanisms and benchmarks to implement a national system for promoting and upholding human rights, based above all on international legal instruments. And this will come about. But I have to concede that there is no full awareness and recognition across all social milieus in Moldovan modern society of the concepts of equal opportunities and anti-discrimination.

Against this background, the Republic of Moldova promotes the organisation of campaigns to raise awareness of the problem of discrimination and its consequences in all areas: education, health, free access to public services, freedom of expression, labour, economic activities, employment, etc. It also organises a number of round tables, debates, workshops and seminars in human-rights-related fields, focusing on upholding the principle of equality and non-discrimination, in order to develop, at national, regional and local level, programmes and projects to protect certain vulnerable categories of the population against discrimination, placing an emphasis on the measures required to prevent such discrimination. We also wish to consolidate citizen education in the field of non-discrimination through educational approaches, both formal and non-formal, and supplement our legislation with other non-discrimination criteria. The human rights action plan for the period 2010-2013 is a nation-wide means of strengthening human rights and is aimed at bringing about positive change.

At present, we are looking closely at the question of Moldova's ratification of Protocol No. 12 to the European Convention on Human Rights and the Convention on the rights of people with disabilities, and of Moldova's accession to the European Charter for Regional or Minority Languages.

However, it must be said that these rights cannot be secured throughout the whole of Moldovan territory, a third of which has been occupied since 1992. In that part of the country, it is not possible to speak of upholding rights since Soviet policy on fundamental freedoms and human rights is still being applied. I am convinced that one day these rights will be secured throughout the whole of my country since nothing lasts forever and history has taught us that even empires are finite. The only thing that is eternal is the values derived from human rights and fundamental freedoms. I call on you to do all you can to ensure that your citizens do not feel discriminated against by those in power at national level. It is worth asking why a citizen who, from a legal point of view and in accordance with the Universal Declaration of Human Rights, has to see his or her right to freedom of movement dependent on ratification of an agreement. Either we have guarantees for all citizens and freedom for all, or we place the prime emphasis on agreements.

### **Ms Slavica DJUKIC - DEJANOVIC, Speaker of the Narodna skupština (Serbia)**

As you know, parliaments are the central institutions of democracy. They embody the will of the people and strive to respond to their needs and expectations. When setting the priorities of the work of our parliament, we are pursuing the objective of the European integration process, as it is based on wide popular support. The fact that the process of association with the EU is one of our national priorities is confirmed by various governmental programmes, by the new constitution of the Republic of Serbia, enacted in November 2006, and above all by a number of strategic documents and action plans adopted over the course of the past eight years. This is aimed at bringing national legislation into line with the body of EU law.

Serbia attaches great importance to the application of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the European Convention on Human

Rights and to Protocol No. 12 of this Convention. In this respect, the National Assembly of the Republic of Serbia, by performing its legislative function, is doing its utmost to meet all the requirements contained in the international agreements I have just mentioned.

Pursuant to Article 1 of its constitution, the Republic of Serbia is the state of the Serbian people and all the citizens who live there. It is based on the rule of law and social justice, the principles of civil democracy, human and minority rights and freedoms, and a commitment to European principles and values.

Our constitution stipulates that all are equal before the constitution and the law, and that all have the right to equal legal protection without discrimination. All forms of discrimination are forbidden, direct and indirect, on the grounds especially of race, gender, national or social origin, birth, faith and religion, political or other convictions, material standing, culture, language, age, mental or physical disability.

The National Assembly of the Republic of Serbia passed a law on the prohibition of discrimination on 26 March 2009. According to the opinion of the Venice Commission, this law represents an important and valuable step forward in promoting legal protection against discrimination in Serbia and is fully in line with the anti-discrimination directives of the EU. This law introduces a commissioner for the protection of equality, who shall receive and consider appeals on violations of the law and pronounce measures stipulated in the law. The commissioner has been given the right of action, i.e. to file suits. The commissioner's annual report is submitted to the National Assembly and the public is informed of its content.

In addition to the law on the prohibition of discrimination, this field is regulated by numerous other pieces of legislation: the Criminal Code, the Labour Code, the law on broadcasting, the law on free access to information of public importance, the health protection law, the law on the police, the law on the basis of the education system, and others.

The office for the implementation of the National Roma Strategy has been established within the Ministry of Human and Minority Rights. One of the office's main responsibilities is to co-ordinate the drafting and implementation of strategic documents aimed at improving the situation of the Roma and monitoring implementation. One of the most significant activities conducted at national level during the Serbian presidency of the Roma Decade (June 2008-June 2009) was the strategy for improvement of the situation of the Roma population and the accompanying action plan for its implementation. Thirteen areas are covered.

I would particularly like to underline that the Republic of Serbia, after several years of preparation and after a long period of parliamentary proceedings, has adopted a law on gender equality. This is a law of utmost importance since it regulates the establishment of equal opportunities, the realisation of rights and duties and the introduction of special instruments to prevent and eliminate gender and sex-based discrimination, as well as legal procedures providing protection of those exposed to discrimination.

The National Assembly of the Republic of Serbia attaches special attention to the development of parliamentary co-operation in all fields. I am convinced that this conference will give us the opportunity to exchange experiences in various fields, especially the field of human rights and non-discrimination. I believe that legislative activity regarding these matters that I have just presented can be a useful contribution in this respect. This is my hope.

#### **Mr Pavel GANTAR, Speaker of the National Assembly (Slovenia)**

The principle of non-discrimination as an integral part of international human rights law is a driving force in the protection of economic, social and cultural rights. The principle of non-discrimination on the basis of nationality, race, gender, sexual orientation was essential for the establishment of a common labour market in Europe. Subsequently, the European Union adopted directives for the

prevention of all forms of discrimination in employment and in other areas of the life of EU citizens with the aim of combating any uncertainty of the applicability of the general principle of non-discrimination.

However, we are talking here about a much broader area than the territory covered by the European Union member states. It is therefore of utmost importance that we strive for the common goal of ensuring the highest possible standards in all countries of the Council of Europe and a consistent enforcement of the principle of non-discrimination.

As I have stressed on several occasions, in pursuing genuine democracy, one of the key conditions to attain such goals is the consistent application of the principle of non-discrimination. Parliaments can and should actively contribute to its enforcement. This is the very essence of a parliament, which is a home to us all, and we should therefore strive to create the conditions to keep it as such.

One of the ways to achieve this is to actively promote equality, particularly by setting a positive example, and designing mechanisms that will secure the same conditions, also for disadvantaged groups, be it at local, regional or national level.

In this process, it is particularly important to exercise active parliamentary scrutiny over the implementation of adopted legislation and eliminate any legislation which proves to be contrary to this principle.

It is my great pleasure to inform you that in May 2010, the National Assembly of the Republic of Slovenia passed an act ratifying Protocol No. 12 to the European Convention on Human Rights, and thereby Slovenia joined the still few members of the Council of Europe which are also members of the EU, sharing the view that EU legislation should not be a barrier to ratification of this protocol. These countries also believe that the EU countries can opt for higher standards than those already established.

In Slovenia, the right to equal treatment, regardless of national origin, race, gender, language, religion, political or other convictions, birth, wealth, education, social status, disability is constitutionally guaranteed. We are also one of the few European countries where the rights of the Roma are enshrined in the constitution. Our law on the Roma community provides, in a way, positive discrimination measures for this community.

Since 2008, Slovenia has carried out a campaign to combat prejudice against the Roma and in December 2009, the Equality in Diversity project was launched. To promote equality, the government has adopted a series of national programmes and action plans to ensure de facto equality between the different social groups in our country. The question of tolerance is one of the most important in the Slovenian educational system. Parliament is also more and more involved in a number of initiatives at various levels.

We attach special attention to the representatives of two minority groups in Slovenia, which are also represented in parliament. Obviously, these representatives are entitled to use their own language. Our parliament therefore applies various positive measures for several disadvantaged groups.

All the procedures laid down for ratification by Slovenia of Protocol No. 12 are expected to be completed this year, in autumn at the latest. I hope that this example will be soon followed by other members of the Council of Europe which have not yet taken this step and have thus not yet supplemented their national legal protection systems with the possibility of appealing to the European Court of Human Rights on grounds of discrimination in the exercise of any rights, not only those enshrined in the Convention.

**Mr Petros EFTHYMIU, Vice-President of the Parliamentary Assembly of the OSCE**

I am one of the last speakers and I know that there is not only pressure from the Chair but also from the audience. In addition, I have the ambiguous privilege of trying to draw some conclusions.

This meeting has been extremely worthwhile. The OSCE works in the field of democratic values and this field is the hard core of the Helsinki Final Act. These are the values we are trying to promote. Two years ago, we had 9,000 people in Kosovo; missions have also been organised in other countries, particularly in Kirghizstan. But I think that the real problem has been absent from this plenary session, even though my Andorran and Netherlands colleagues referred to it: there is a lack of trust between peoples and parliaments, between peoples and governments. Our work is a kind of paper work; it is not close to the real life of people. Public opinion is not particularly interested in politics and politicians, because we have to admit that over the last 30 years there has been a transfer of power from parliaments and governments to the economic power and the power of the media. It is no longer the politicians who determine the agenda of the everyday life of our fellow citizens, it is the media. All the organisations, whether already mature, like the Council of Europe at 61, younger ones, like the OSCE at 18, or still more recent ones, like the Parliamentary Assembly of the Mediterranean, or conversely very old institutions like the Swedish parliament, over 500 years old, they all face the same problem: a lack of trust and a lack of efficiency.

It was mentioned that for national parliaments and international organisations, the important thing is not legislation but ratification and implementation. Parliaments and international bodies must be the watchdogs of what governments are doing. How should we be responding to the needs of our citizens? How are we to address the problems we are facing?

I believe from my own personal experience that the real answer for us politicians in order to keep our pride and our integrity, is what Thomas Hammarberg indicated. My generation experienced the 20<sup>th</sup> century, which was a dark century, with intervals of light between totalitarianism and dictatorship. We hope that the 21<sup>st</sup> century will be different, but in order to be different, we politicians must play our role and think about what we represent. My generation fought against the dictatorship in Greece and against dictatorship everywhere. But, think about how much more credible are the international organisations by knowing that in 1967 Thomas Hammarberg was arrested in Greece by the junta fighting for democracy and protesting at human rights violations. The only way to be persuasive is to live the principles we uphold and to show that our commitment is genuine. We have a vocation, not a profession. We serve our people through a value system that we represent. I think this is the answer to the hidden question as to our role and our action.

**Mr Oktay ASADOV, Speaker of the Melli Mejlis (Azerbaijan)**

The subject we are discussing today is very pertinent. Ensuring equal rights and equal opportunities for all people and the elimination of discrimination lie at the very heart of the concept of human rights. Subjecting a person to discrimination, on whatever grounds, would be tantamount to debasing that person and humiliating his or her human dignity. It is totally unacceptable to treat people differently because they look differently or think differently. We members of parliament must accept this as one of the key principles of our daily activity. In the contemporary world it is impossible to conceive the protection of human rights without parliaments, which strengthen democratic institutions and establish a solid framework for the realisation of human rights, fundamental freedoms and the rule of law, aligning national legislation with international standards, exercising effective scrutiny over executive bodies, involving NGOs in their political activities and organising open debates on issues of interest to the general public.

Historically, Azerbaijan has been known for its tolerance towards other countries and other religions. Non-discrimination in my country is therefore a fundamental social norm, a norm of co-existence, a mode of life and thinking. In a number of cases, the Milli Mejlis has brought the law alive and we have adopted a number of legislative acts stemming from our international commitments. Examples are laws on religious freedom, gender equality and combating human trafficking.

In this context, I would like to make specific reference to the draft law on the suppression of domestic violence which has gone through broad public debate in parliament and will soon be enacted. The right to equality and the principle of non-discrimination are explicitly laid down in the constitution and legislation of Azerbaijan. Furthermore, the Milli Majlis has ratified a number of international conventions aimed at the elimination of discrimination. Parliament has also recognised the jurisdiction of the complaint mechanisms provided for in those conventions.

Our parliament has been directly involved in the process of implementation of the provisions of the above-mentioned conventions. Representatives of the Milli Majlis are members of the government delegation when human rights treaty bodies are considering reports on Azerbaijan. Furthermore, relevant Milli Majlis committees organise debates on the state of implementation of the recommendations submitted by those bodies to the government of Azerbaijan. In general, there is constructive co-operation between the government and parliament of Azerbaijan in the field of honouring of international human rights obligations entered into by the state of Azerbaijan.

I would also like to inform you that currently the Milli Majlis is contemplating ratification of Protocol No. 12 to the European Convention on Human Rights of discrimination. It is obvious that application of the non-discrimination principle cannot be limited solely to the enactment of good laws.

I would like to conclude by citing Balzac who said that equality may be a right, but no power on earth can ever turn it into a fact. Today, in my view, the great French writer would put it in a different way, saying that equality is a right and parliaments do have the power to turn it into a fact.

### **The Chair**

We have reached the end of the list of speakers.

I would like to give the floor to Mrs Pascale Bruderer Wyss to sum up the debates.

### **Mrs Pascale BRUDERER WYSS, Speaker of the National Council (Switzerland)**

Thank you for these contributions which are very important for the parliaments of our countries and, accordingly, for each and every one of us.

Our debate shows the truth of Mr Hammarberg's words, that human rights lie at the very centre of everyday life.

The face of human rights can change from country to country, from one minority group to another, but the fundamental principle remains the same: non-discrimination is an integral part of human rights.

To sum up, I would like to mention three main lessons that I shall take with me and that we perhaps will all take with us.

First of all, we should be aware of the very important role our parliaments have, not only because of the parliamentarians' responsibility in making laws and exercising scrutiny of the executive, but also, because members of parliament should be and can be bridges between politics and people. We also play a very important role in the implementation of laws.

Second, ensuring equal rights in our laws and constitutions is enormously important, but the substance of those articles must be implemented in reality, as we just heard from our colleague from Azerbaijan. We can take several examples, such as the labour market or the budgetary process, which we have been talking about. There is no need to repeat them all, but it is very important to keep them in mind. Non-discrimination is not only about having the right laws, it is also about changing reality.

Third, very often positive action is needed in order to guarantee non-discrimination. If we take the example of people with disabilities, it is not merely a matter of protecting them against discrimination and disadvantages, but let us enable them as well to be active citizens, with their ideas, their resources and their experience. I think that diversity is not only a goal for our society, but also the reality of our society, and I am very happy about this. We are all different, but we all have our parts to play.

I shall conclude by saying that non-discrimination is not about “them” and “us”, it’s about all of us together as one society.

**Mr Thomas HAMMARBERG, Council of Europe Commissioner for Human Rights**

I believe this has been a fruitful discussion. Some important messages have been given. I noticed, in particular, the pledges that have been given regarding further ratifications; for instance, the Slovenian message here that they have ratified Protocol No. 12, and I sense that there are others who are in the process of ratifying this important treaty. I am sure that the Parliamentary Assembly will be very happy to hear these messages when they have the report from this conference.

It has to be recognised that it is not only a question of ratifications and new laws, it is also a question of influencing the public, of creating an atmosphere in which daily discrimination does not take place. Of course, parliaments cannot ignore public opinion and sometimes public opinion is not very friendly when it comes to protecting minorities against discrimination. The question is what do we have to do in order to have a meaningful influence on people at large without entering into censorship and brainwashing? We need to have an enlightened debate. There are four major areas which are of particular importance.

First of all, the media. The Vice-President of the Italian Senate mentioned the importance of the media and there, I think we have some further reforms to undertake in order to make it possible to ensure that there is diversity of the media and that different voices can actually be heard through the media in the public debate. There is a problem in this regard in some countries. Second, there is also a need for the media to be self-critical and we support the trend now within journalism itself to look to the ethics of journalism and promote ethical journalism, in order to avoid a situation in which newspapers and radio programmes become instruments for xenophobia and racism. This has to be prevented of course; a good media culture in a country is an effective defence against discrimination.

Second, civil society and NGOs. It has been said here by several speakers that it is important for the authorities to have an ongoing dialogue with civil society representatives to hear what concerns they have, because in many cases they do represent minorities and people who are vulnerable in society and it is extremely valuable for the parliamentarians and the authorities to get that sort of feedback about the real situation. A constructive relationship with NGOs is a good step in the right direction, according to our experience.

Third, the education system and schools. Several of you have mentioned the importance of human rights education in schools. This is not an easy area and we are not talking about imposing values on children; that really doesn’t work. However, there is a need to try to convey to the next generation the fundamental values of democracy on which we have based our discussions so far. One important point is to give factual teaching about the history of our own countries. Those countries which have undergone a transition from a dictatorship to democracy, have a very important task in order to convey the lessons learned from this process, from discrimination, from dictatorship, the censorship period in the history of the country. Some countries have had very tragic incidents in the past, even mass murder and it is important that this comes out, that it is discussed in a solid, objective manner and that the next generation have the right information to be able to learn the appropriate lessons. It is essential to take genuine action in the school system.

Another idea which has been mentioned here is the importance of some kind of monitoring system, perhaps in the form of an ombudsman or equality authority which could receive complaints from

people who believe that their rights have not been fully upheld. The judicial system is of course very important, but we have learnt that the system of ombudsman is a very valuable complement to the judicial procedures. And it is vital for that institution to have a dialogue with the national parliament and present the more structured conclusions from what they hear from individual complaints. This is essential.

And finally, we have to recognise that the problems we are discussing here are really European. These problems have a strong European dimension, whether we are discussing the Roma, immigration, or xenophobia which is on the rise in certain countries. We have to ensure that there is an equitable sharing of responsibility among European countries when it comes to receiving migrants.

Some parliaments have a human rights committee, such as the Italian Senate. This is a good model for encouraging dialogue on these matters between parliaments, the ombudsman, the school system, the media and also the public at large.

I am sure that all the good advice, all the ideas and all the pledges we have heard can provide substance for the report which you will be presenting, Mr Chair, to your colleagues in the Parliamentary Assembly.

## **CONCLUSIONS**

### **The Chair**

May I once again thank Mrs Bruderer Wyss and Commissioner Hammarberg for their valuable contributions to our debates, at the opening and close of the meeting, and now I would like to hand over to Marios Garoyian.

### **Mr Marios GAROYIAN, Speaker of the House of Representatives (Cyprus)**

Yesterday and today we have addressed two themes which are central to the work of national parliaments and the Parliamentary Assembly of the Council of Europe, "Rights and responsibilities of the opposition in a parliament", and "National parliaments and international human rights law: implementation of the principle of non-discrimination".

These themes are particularly topical at the present moment when European democracies are faced with a multitude of challenges, not least the impact of the economic crisis, globalisation and the need to react with swift decisions.

The response to these challenges can be found only through a fully inclusive democratic process, the exercise of good judgement and sense of responsibility by all political forces and the courage to support unpopular choices. Thank you very much for your valuable contributions and for the wealth of ideas that you have presented.

We have tried to summarise the conclusions of this conference together with a number of examples of good practices in a detailed document which will be distributed at the end of this session. I believe that a number of recommendations have emerged from our debates which will help us increase the capacity of our parliaments to respond to the challenges of our time.

### ***First theme: Rights and responsibilities of the opposition in a parliament***

Here are our recommendations:

First, the legitimacy of a parliament is based on the free and fair character of the electoral process and on the possibility for the electorate to express a free and informed choice. There is no single model of electoral system that could be recommended as the best one; however excluding large

sections of the population from the right to be represented is detrimental to the democratic process.

Second, there is scope for improving the legal framework and material conditions enabling opposition parties in parliament to have the means to fulfil their functions.

Third, the capacity of the opposition to exercise its oversight role could be enhanced. The opposition could also be given more opportunities to influence the parliament's agenda and take part in the management of parliamentary business.

Fourth, in the light of their mediation role and their duty of impartiality, speakers of parliament hold primary responsibility for ensuring that opposition representatives are given the possibility to fully participate in the functioning of parliament and discharge their responsibilities. Consistent with the different constitutional and political traditions of each country, there is scope for expanding the powers and latitude of speakers of parliaments in this regard.

Fifth, opposition parties should not limit themselves to criticising the government, but formulate alternative proposals and policies in order to prepare themselves for taking up governmental responsibilities.

Sixth, opposition parties are strongly encouraged to establish a constructive dialogue with the government in order to contribute to the smooth functioning of the political system, for the benefit of the public interest. Obstructionism should be an exceptional measure to be used as a last resort.

Seventh, the government should seek to establish a process of consensus building, in particular when matters of national interest are at stake.

Eighth, the adoption of electoral legislation should involve the broadest spectrum of political forces. Similarly, all political forces should play a role in the context of electoral institutions.

Ninth, National parliaments should ensure that delegations engaged in interparliamentary activities reflect a pluralist composition and that opposition members can play an active and effective part.

Tenth, participation in international parliamentary bodies and other international forums should be encouraged as a way to increase knowledge, exchange information and good practice and secure access to information.

Eleventh, parties supporting the government and those opposing it share a joint responsibility in consolidating the citizens' trust in the political system and democratic institutions, ensuring their smooth functioning and offering the public an informed choice.

If you would allow me, I would like to say a few words about the conference.

This European Conference of Presidents of Parliaments which we have had the good fortune to attend and which we have had the privilege of organising has come to its end. I believe that this was an excellent encounter which gave us a unique opportunity to exchange opinions in a very friendly environment on these extremely important topics which we have been considering. At the same time, we have had the opportunity to engage in bilateral consultations and exchange views on issues of interest to us all.

I would like to express my delight at the presence here of our co-Chair, the President of the Parliamentary Assembly of the Council of Europe, Mr Çavuşoğlu, and my other colleagues. This has made it possible to further enlighten our debates.

I would also like to thank yesterday's and today's keynote speakers, in particular the Council of Europe's Commissioner for Human Rights for their heartfelt contributions to this conference. It is well known that a major conference such as this one can be successful only thanks to the tireless

work of the many people working in the background. I would like to thank all those involved, particularly the Secretariat of the Parliamentary Assembly, the interpreters, the staff of the Cypriot parliament and many others who have contributed to the organisation of this conference.

I wish you all a very pleasant end to your stay in Cyprus and a safe return home.

### ***Mr Marios Garoyian took the Chair***

#### **The Chair**

I would now like to give the floor to the Vice-Chair of the conference, for the presentation of the conclusions on the second theme.

### ***Second theme: National parliaments and international human rights law: implementation of the principle of non-discrimination***

#### **Mr Mevlüt ÇAVUŞOĞLU, President of the Parliamentary Assembly of the Council of Europe**

The challenges posed by the economic crisis are manifold. One of them is how to address the risk of increased vulnerability of disadvantaged groups and the rise in intolerance and discrimination. Our resolute reply is as follows: we can tackle this challenge through a renewed commitment to apply international human rights law, by consolidating our system of values to strengthen mutual respect in our societies.

I believe that the following recommendations have emerged from our debates.

First, national parliaments should promote the signature and/or ratification of Protocol No. 12 to the European Convention on Human Rights by the competent national authorities in order to ensure full compliance with the principle of non-discrimination.

Second, in countries which are not yet parties to the Framework Convention on national minorities and the European Social Charter, members of national parliaments could support ratification.

Third, national parliaments should also pass robust and comprehensive anti-discrimination legislation in line with international standards.

Fourth, to assist with the implementation of such legislation, national parliaments could support the setting up of specialised national bodies for the elimination of discrimination and promotion of equality, independent of the executive, and provide adequate resources.

Fifth, parliaments could play an important role in promoting the mainstreaming of non-discrimination in all activities of public authorities.

Sixth, parliamentary mechanisms could be devised to review domestic legislation so as to repeal all laws based on discrimination or amend laws having discriminatory effects.

Seventh, national parliaments should be encouraged to take or promote positive measures in favour of disadvantaged groups whose members are prevented from the full enjoyment of their rights due to discrimination, so as to remedy de facto inequalities – which means positive discrimination.

Eighth, parliaments could support activities aimed at fostering intercultural dialogue, including its religious dimension.

Ninth, in the context of the adoption of the state budget, parliaments should ensure that adequate resources are allocated to counter discrimination and to meet the needs of disadvantaged groups to promote effective equality.

Tenth, national parliaments should attentively scrutinise government policies and call governments to account with regard to policies which might have discriminatory effects. They could also encourage the government to adopt anti-discrimination plans and strategies.

Eleventh, national parliaments should play a prominent role in promoting compliance with the judgments of the European Court of Human Rights and take legislative or policy initiatives to remedy any deficiencies in domestic legislation highlighted by the Court.

Lastly, participants expressed the firm hope for a lasting and comprehensive solution for a peaceful and united Cyprus, which would guarantee the legitimate rights of both Greek and Turkish Cypriots, in full compliance with the values and principles of the Council of Europe.

Finally, on behalf of all participants, I would like to thank wholeheartedly our Cypriot hosts, in particular the House of Representatives and its Speaker, my dear friend Marios Garoyian, for the excellent organisation of this conference and the exceptional hospitality shown to us. I would also like to thank all of you for accepting our invitation to attend this extremely important conference and for your contributions to the debates.

### **The Chair**

I am pleased to announce that the next European Conference of Presidents of Parliament will be held in Strasbourg in 2012. The exact date will be confirmed in due course.

I now declare this conference closed.

*The sitting rose at 1 pm.*