Twenty-third Thomas Corbishley Memorial Lecture by Lord Russell Johnston
President of the Parliamentary Assembly of the Council of Europe
(National Liberal Club, London, 12 July 1999)

**The Council of European Fifty Years on - Its Future**

Mr Chairman, Ladies and Gentlemen,

It is my great privilege to address this gathering and to honour with my lecture the memory of one of the original directors of the Wyndham Place Trust, Reverend Corbishley.

Let me say, right at the start, as a kind of advance apology, that this address has been prepared in difficult circumstances and if, as I believe to be the case, it is proposed, subsequently, to be printed, I would appreciate an opportunity to adjust and revise it.

To give you an idea of what I mean I would tell you that in the last two weeks I have the visited the War Crimes Tribunal in The Hague, spent four days in Lithuania, where I addressed their Parliament, chaired a meeting of the Assembly Political Group leaders in St Petersburg about the reform of the Assembly; addressed the OSCE Assembly there and travelled to Montenegro, where I spoke with all of the political leadership there from Djukanovic down. It was all go before that as well, but I won't bore you with it! Well, I will …

And my team is 5 people - my Chef de Cabinet (a Swede); my personal assistant (Slovenian) and three secretaries (French). Se we're pushed!

In January this year, I was elected President of the Parliamentary Assembly of the Council of Europe. The election came at the end of my 14 years as a member, as Chairman of the Committee for Culture and Education and the Leader of the Liberal Group in this body.

The Council of Europe is the oldest political organisation in Europe. It was set up in 1949 with the task to defend human rights and democracy in Europe and to achieve greater unity among its members.

Today, in addition to its original mandate, it is the leading organisation promoting awareness of European cultural identity and tackling across borders social issues, such as the discrimination against minorities, xenophobia, intolerance, environmental protection, bioethics and so on.

During its fifty years of existence, the Council of Europe has produced hundreds of recommendations to its member states, setting out policy guidelines on major issues affecting society. It has also created almost 180 European treaties and conventions in all fields within its competence, which replace some 130 000 bilateral treaties.

The Council of Europe is an organisation composed of 41 European states, with Georgia being the most recent one to join us in April this year.

Its decision making body is the Committee of Ministers, which meets twice a year at the level of foreign ministers, and sits permanently at the level of Ambassadors.

Its Parliamentary Assembly is a unique body, as it is the only international parliamentary institution which has significant competence within an inter-governmental organisation of which it is a part.

The Assembly elects the Secretary General of the Organisation, as well as the judges of the European Court of Human Rights, and the Committee of Ministers has an obligation to respond to its recommendations within strictly defined time limits. Using its prerogatives, the Assembly has been the initiator of a significant number of Council of Europe conventions and other legal instruments and political initiatives.

The Council of Europe is also 1 400 men and women, coming from all the member states, who work as members of its permanent secretariat. In my experience, they are extraordinarily dedicated.

The overall budget of the Organisation is about 157 million pounds. It may sound much, but as is often pointed out, it is the amount of money that the European Union, incomparable as our mandates are, spends in half an hour or so. And is equivalent to 10p per citizen per year.

This year we celebrated our fiftieth anniversary. So much has been written and said about the Council of Europe that on this occasion I prefer to concentrate on some perhaps lesser known details and aspects of its work.

Members of the British government, with Sir Winston Churchill notable among them, were the first to speak of a "Council of Europe". It was a British proposal, accepted by Robert Schumann, which led to the setting up of the Organisation's headquarters in Strasbourg. After being the scene of so many conflicts between France and Germany, this city on the Rhine became a symbol of reconciliation between these two countries.

Even today, after so many years, it gives me a thrill to walk over the Europa Bridge, and cross the border between two countries which, in history, sacrificed so many of their young men in bloody wars, without being stopped or searched, just being free.

The Council of Europe has been, from the very beginning, an organisation based on values. In January 1948, in a speech in the House of Commons, Ernest Bevin explained its essence, when he said that "an economic recovery of Europe is not possible without simultaneous moral and political re-armament." European democracies, which had experienced the threat and suffering caused by Nazi ideology, were aware of the importance of values. According to Bevin, these included the hatred of all injustice and oppression, parliamentary democracy, the fight for economic and social rights and the love for freedom.

The Council of Europe is the oldest political organisation in Europe, but it is not the first treaty on European co-operation. It was preceded by the Treaty of Alliance and Mutual Assistance between France and Germany of March 1947 and by the Brussels Treaty of March 1948, between these two countries, and Belgium, Luxembourg and the Netherlands, which provided for co-operation in the fields of economy, culture, social matters and defence. In addition, the OEEC, later OECD, was set up in April 1948 to administer the Marshall plan.

The Council of Europe was the third organisation established. It was to have general competence, and be open to all European democracies. This was the idea behind the Hague Congress in May 1948, which agreed on the four pillars of the future organisation: a united Europe, a Human Rights Charter, a Court of Justice and a European Assembly. Human rights, democracy and the rule of law became not only the leading principles of the Organisation, but an explicit condition for membership;

Even though the Council of Europe has been from the very beginning conceived as a pan-European organisation, it had to wait for almost forty years, until 1989 to achieve this goal, and to include the Central and Eastern European countries.

Before its historic enlargement to the east, the Council of Europe was the vehicle through which Western democracies reconciled.

Between 1949 and 1951, the Assembly tried hard but finally failed to convince the governments of its member states to make the Council of Europe a supra national organisation with limited competence but real powers.

Don't need to ask you to guess which country was a leading opponent!

During the fifties it contributed to the reintegration of Germany and Austria into the European family. In the seventies, it helped the fragile new democracies in Greece, Portugal and Spain, to build and reinforce their democratic institutions.

Throughout this period, it accumulated an impressive body of legal instruments and experience. Its acquis evolved. It was not legally supra-national but the reality was that a European body was coalescing supranational values.

These achievements made the Council of Europe an ideal body to achieve the most ambitious project in recent European history - the integration of former communist states into the family of European democratic nations.

Although this process officially started after the fall of the Berlin wall, the idea of the reunification of the continent existed within the Organisation long before 1989.

It was as long ago as in 1969, 30 years past, that my predecessor at the post of the President of the Assembly, Sir Geoffrey de Freitas, said: "The Assembly believes that the Council of Europe can help in filling the gap between East and West. In the long run this may prove to be as important as the unification of Western Europe."

And he was right. Two decades later, the Council of Europe opened its door to Hungary, as the first among the former communist states to join the Organisation, and launched a process which is still going on.

By the end of 1992, four Central and Eastern European countries had joined the Organisation and a further twelve were knocking on the doors. The Chairman of the Committee of Ministers at the time, Tristan Garel Jones, said at the time: "No other Organisation that I know faces such a challenging, and I may say, flattering situation."

The Council of Europe began to act coherently and developed a comprehensive network of assistance and co-operation programmes for the new member states, which not only facilitated their integration into the Council of Europe, but also laid the foundations for their closer relations with the European Union.

In October 1993, the first Summit of the Organisation's Heads of State and Government took place in Vienna.

The Summit was an opportunity to take stock of the situation with regard to the enlargement and to define the Council of Europe’s contribution to the democratic stability in Europe.

Four years later, the Second Summit in October 1997 focused on the priorities of the Organisation in the post-enlargement period.

In the second part of my presentation, dealing with the period after the Second Summit of the Organisation, I wish to concentrate on the four areas of the Assembly and the Council of Europe’s work.

These are the monitoring procedure, parliamentary diplomacy, Council of Europe activities in South Eastern Europe and the strengthening of our mechanisms for the protection of human rights.

The Monitoring Committee of the Assembly was set up in January 1997 with the task of ensuring full compliance with the undertakings made by all its member states.

This represented the second phase of an effort which began two years earlier, on the basis of an Assembly Order, presented by Mrs Tarja Halonen, who is today the Foreign Minister of Finland, and also, as from a few days ago, the President of the European Union’s Council of Ministers.

The Monitoring Committee is responsible for verifying the fulfilment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member states upon their accession to the Council of Europe.

The Assembly may penalise persistent failure to honour obligations and commitments accepted, and lack of co-operation in its monitoring process, by adopting a resolution or a recommendation, by the non-ratification or by the annulment of ratified credentials of a national parliamentary delegation.

Should the member state continue to not respect its commitments, the Assembly may address a recommendation to the Committee of Ministers requesting it to take the appropriate action in accordance with Articles 8 and 9 of the Statute of the Council of Europe.

These two articles stipulate the right of the Committee of Ministers to suspend the right of representation or exclude any member state which has seriously violated the principles of the rule of law and of the enjoyment by all persons under its jurisdiction of human rights and fundamental freedoms, or failed to collaborate sincerely and effectively in the realisation of the aims of the Council of Europe.

Although the quoted language from Resolution 1115, which set up the monitoring procedure, clearly shows that the Assembly was determined to back its efforts with a credible threat of sanctions, the primary purpose of monitoring was from the very beginning to help, and not to sanction. The Resolution itself says that the monitoring will be conducted in “ a spirit of co-operation and non-discrimination”.

In its first report on the progress of the monitoring procedure in April last year the Assembly welcomed the full co-operation which it had received from national parliamentary delegations.

It also reaffirmed that the purpose of monitoring was to help ensure that all countries build upon, and stay within, a common legal and political framework of the rule of law, of parliamentary democracy, and of human rights protection according to the standards of the Council of Europe.

The report further clarified the objectives of the monitoring procedure and said that it was meant to help to prevent unnecessary strains on the European Court of Human Rights and to ensure that the principles of pluralist democracy are respected.

At the beginning, the monitoring procedure was meant to be limited in time. The original concept envisaged the opening of the procedure following an application, by the committee itself or by members of the Assembly. On the basis of a report prepared by the Committee, the Assembly had to decide either to close the procedure, if the situation was judged satisfactory, or to leave it open if concern regarding the compliance with the commitments and obligations persisted.

Recently, the initial approach has been changed. The monitoring procedure is today regarded as a continuous exercise, although that does not mean that all member states are monitored all the time.

As of March this year, the monitoring procedure was active in ten countries, namely Albania, Bulgaria, Croatia, Latvia, Moldova, Russia, Slovakia, Turkey, Macedonia and Ukraine. In addition, a separate motion for the monitoring of anti-semitism in the Russian Federation had been referred to the Committee by the Assembly’s Bureau.

As I said earlier, the monitoring procedure applies equally to old and new member states - or, in other words - to those who joined the Organisation before and those who joined after 1989.

The difference that does exist, however, is that the so called new member states - a description which, in my view, is no longer adequate - accepted, in addition to the general obligations based on the Council of Europe’s Statute, a series of specific commitments, with fixed deadlines, for each country in question.

The commitments differ only in as much as they reflect different starting positions in each applicant country, but they are all derived from the general obligations and the legal and political “acquis” of the Organisation which, logically, apply in an equal manner to all our members.

However, a quick look at the list of the monitored countries shows that nine out of ten are from the group of the “so called” new countries, with Turkey, a member since 1950, being the only exception. In addition to Turkey, Greece was the only “old” member state to be monitored, which concerned allegations as to its treatment of the Muslim minority in Western Thrace.

The reasons for this imbalance are several, but first of all, the difference is the starting position between “new” and “established” democracies, and the existence of the specific and more easily verifiable sets of commitments which had been drawn up on the occasion of every accession since 1989.

This practice will no doubt also be followed in the possible next member state - Monaco. A recently produced report on the compliance of its internal legal order with the standards and principles of the Council of Europe listed a number of considerable shortcomings. The Monegasque authorities will be asked to overcome these shortcomings within strictly defined time limits, if the accession is to go ahead. I will enlarge on that at question time if anyone is interested.

The monitoring itself is comprehensive and includes, in addition to the signature and ratification of Council of Europe’s key legal instruments, the following areas:

With regard to the respect for a pluralist democracy:

* separation of powers,
* elections, including the electoral law, access to media, assessment of whether they are free, general, secret and fair,
* status and conditions for the setting up of political parties,
* pluralist composition of parliament, minority representation, control over the executive, immunities, rights and duties of opposition,
* use and control of special powers in emergency situations,
* local and regional government.

With regard to the rule of law and human rights the list includes:

* status of domestic law vis-à-vis international human rights treaties,
* effectiveness of constitutional and legal guarantees for human rights,
* independence of the judiciary and access to justice,
* police attitude, prison conditions and prison administration,
* respect for private life and family life, or, in other words, data protection,
* restitution and fair compensation for confiscated property,
* freedom of worship and of conscience,
* freedom of expression, notably of the media,
* freedom of association,
* freedom of movement and of assembly,
* equality between men and women,
* minorities,
* policies to combat racism, anti-semitism, xenophobia.

The Committee also monitors the willingness to settle internal and international disputes by peaceful means.

I apologise for this exhaustive presentation, but I believe that it was necessary to show the systematic character and the serious approach of our monitoring effort.

The experience of the last two and a half years shows that the monitoring procedure has largely fulfilled its role of assisting and advising our member states. In most cases, the recommendations formulated by the Assembly are welcomed by the national authorities as an additional support and guidance for their own efforts to meet the Council of Europe standards.

The reports on Croatia contained criticisms with regard to the willingness of the authorities to facilitate the return of Serb refugees to Krajina and the freedom of the media.

The report on Turkey expressed concerns with regard to the situation of the Kurdish population in this country.

Only in the most recent case, the monitoring report on Ukraine, did the Assembly feel obliged to use the threat of sanctions.

In January this year, after taking note of the country’s failure to observe a large part of its commitments and obligations within the agreed time period, which was more than three years, the Assembly gave Ukraine time until June to achieve “substantial progress” or to face the suspension of the rights of representation of its parliamentary delegation.

Two weeks ago, and in spite of the recommendation of the Monitoring Committee to go ahead with sanctions, the Assembly agreed to an additional six months before the procedure to suspend Ukraine would be activated.

This shows that the Assembly is not trigger-happy. In my view, this was sensitive and wise, but the Ukrainian Government and the Verkhovna Rada will have to do their utmost to meet their obligations before next January, if sanctions are to be avoided.

The monitoring procedure is a “quiet revolution” in international relations. It is Orwell reversed. The people, through their elected representatives, “are watching Big Brother”.

Never before have sovereign states been scrutinised so comprehensively and systematically with regard to their democratic and human rights performance.

With the monitoring procedure, the Council of Europe completed its set of legal and political instruments with which it “interferes in the internal affairs of its member states”. It does so in the best interests of the people and of national governments themselves. True democracies have nothing to fear and only to gain from such an approach.

*Parliamentary diplomacy*

Parliamentary diplomacy is a term used to describe a very wide set of activities of the Assembly, aimed at contributing to the resolution of political tensions within and between states in the Council of Europe area.

We have, in our Assembly, a huge reservoir of parliamentary experience and are capable of much more friendly, open talk than governments. We can often see, quickly and clearly what governments have overlooked!

This can be of enormous value in finding solutions to political or national disputes and hence to the governments who are often inhibited by the formalities of their stated positions, but, in the end, must make decisions.

We have been involved in efforts to initiate dialogue and co-operation between the political forces in Albania, since the disputed parliamentary elections of May 1996.

The Assembly played a prominent role in the creation of suitable conditions for the holding of parliamentary elections in June 1997, after the outbreak of riots and the near collapse of Albanian institutions earlier that year.

The elections, carried out with the assistance of the OSCE, were observed by a significant number of international observers, led by Catherine Lalumière, a former Secretary General of the Council of Europe, representing the European Parliament, the President of the Parliamentary Assembly of the OSCE and myself, as the representative of the Parliamentary Assembly of the Council of Europe.

The tri-parliamentary formula has been used on several occasions since, in attempts to bring to an end the political impasse and the boycott of the parliament by Berisha’s Democratic Party, which I am glad to report is about to end.

The Assembly is also very much involved in the efforts to resolve the remaining tensions in the South Caucasus.

In April this year, Georgia, as the first of the countries in the region, joined the Council of Europe. This was in recognition of the remarkable progress in the strengthening of democratic institutions and the respect of human rights, achieved by the Georgian Government and President Shevardnadze.

In March this year I had a meeting with the Speakers of Parliaments from the three South Caucasian countries - Armenia, Azerbaijan and Georgia, who responded positively to my invitation, and came to Strasbourg to discuss possibilities for inter-parliamentary co-operation in the region.

A concrete result of this meeting was the decision to launch a series of tri-lateral parliamentary meetings, under the auspices of the Parliamentary Assembly. The first of these seminars, which will take place successively in the three capitals, will be held in Tbilisi in September. On this occasion, I also intend to officially visit Yerevan and Baku.

The tri-partite parliamentary co-operation is an exercise which will certainly help to create an atmosphere of confidence and mutual trust and contribute to deflating the tensions in the region. We are not claiming to be able to solve the Nagorno Karabakh dispute, but to create better conditions within which a solution may be found.

In Belarus, our Political Affairs Committee is trying to initiate dialogue between the political forces supporting and those opposing the administration of President Lukashenko. Two hearings with their representatives have already been held in Strasbourg, and we are exchanging information with our colleagues in the OSCE Assembly, which is engaged in a similar exercise.

Unfortunately, the main obstacle to any progress of democratic reforms in Belarus, which had its special guest status in the Assembly suspended following the controversial constitutional referendum in November 1996, is the intransigent attitude of the country’s president.

But we cannot coerce co-operation, and our efforts only bear fruit when our interlocutors are sensitive to our values. Against those who prefer authoritarian rule to democracy. Our Statute makes us powerless. Action beyond, such as taken against Yugoslavia, is not for us to take.

In spite of our continuous efforts, there has been very little or no progress since the suspension of the special guest status of the country’s parliament. As was also confirmed by the critical report on the observation of the local elections in April, there is very little evidence of the government’s readiness to accept the challenge of a free and fair ballot. In such circumstances, it is evidently difficult to imagine a speedy re-integration of Belarus into our structures.

*South Eastern Europe*

In Bosnia and Herzegovina, and now in Kosovo, we are trying to build democratic political institutions, create an independent judiciary and an efficient administration, a system for the protection of human rights and rights of national minorities, set up schools and curricula, local and regional authorities. We need to build infrastructure, create jobs.

We need to build and create, but also to teach, to advise, to influence, to give a positive example.

This is a contribution which cannot only be measured in men and fancy equipment, but first and foremost in the accumulated experience of an organisation. It is a contribution the Council of Europe is ideally placed to provide.

Through its assistance and co-operation programmes in Bosnia and Herzegovina and in Albania, the Council of Europe has helped these two countries to reform, and often to build from scratch, their democratic institutions, legal system, human rights protection mechanisms, education, local democracy and civil society.

The Assembly, through its monitoring procedure in the case of Albania, and the examination of Bosnia and Herzegovina’s application of membership, takes an active part in this process.

The Council of Europe’s Venice Commission for Democracy through Law, composed of leading constitutional experts from our member states, is helping the countries in the region, as well as elsewhere in the Council of Europe area, in the adoption of crucial constitutional and legislative texts. The UK is not yet a member but will be. It is a disgrace that it wasn't.

Its experts acted as legal advisers to the European Union’s representative at the Rambouillet talks, Ambassador Wolfgang Petritsch, who was recently appointed High Representative in Bosnia and Herzegovina to replace Carlos Westendorp.

The Council of Europe has three offices in the region, two in Bosnia and Herzegovina, in Sarajevo and in Mostar, and the third in Tirana.

A fourth one is expected to open soon in Pristina, while the Assembly also asked for an office in Belgrade, with a view to helping the democratic processes in Serbia. I have personally recommended that one also be opened in Podgorica.

The Council of Europe is a participating organisation in the Stability Pact for South Eastern Europe, adopted on 10 June this year at the Ministerial Conference in Cologne. It was asked to contribute to the implementation of the Pact through its instruments and assistance programmes in the fields of its expertise.

On-going measures, carried out either by the Council of Europe alone or in co-operation with other international organisations, include:

* the registration of refugees;
* issuing of identity cards and family reunification;
* the assessment of human rights violations, including gender-based violence;
* programmes for the prevention of trafficking in human beings for the purpose of sexual exploitation;
* educational assistance, including the production of text books;
* support to independent media;
* human rights training for local human rights non-governmental organisations;
* protection of national minorities and their participation in political life;
* support for local authorities and regional authorities and for civil society.

*Human Rights Mechanisms*

Finally, allow me to say just a few words about our legal mechanisms for the protection of human rights, which are based on the European Convention on Human Rights.

This Convention has been referred to as the jewel in the crown of the Council of Europe. New member states are obliged to sign it on becoming members and to ratify within one year.

If an individual considers that one of his rights, protected under the Convention was violated by a Council of Europe member state, he or she may, once domestic legal remedies are exhausted, seek redress in Strasbourg.

The convention setting up a supra-national court to review the judgement of the domestic courts, and stipulating that sovereign states are bound by its findings, represents an historic and unprecedented step in international law.

In November last year, a permanently-sitting Court of Human Rights was set up to speed up the processing of individuals' petitions and inter-state cases. The judges, one from each member state, are entirely independent and are elected by the Parliamentary Assembly.

As a result of the Court’s findings, member states are often obliged to take action in order to improve their human rights conduct and bring their domestic legislation in line with the Convention, as was the case with the decision requiring the United Kingdom to outlaw corporal punishment in state schools.

With the now fully operational, permanently sitting Court of Human Rights and the creation of the Office of Commissioner of Human Rights, the Council of Europe of tomorrow - which I hope will be stronger and more audacious - is gradually taking shape.

The election of the future Commissioner will give a face to our action in the defence of human rights. The Assembly has always argued strongly in favour of creating this post. However, it was disappointed with its limited mandate and probably now the success or failure of this endeavour will rely heavily on the individual qualities of the future Commissioner, and on his or her professional competence.

The enlargement of the Council of Europe - slowly coming to its end - has brought us very close to the ideal of an undivided, stable and democratic Europe. We are perhaps close, but not yet there.

With the enlargement slowly coming to an end, the Council must now engage in structural reforms necessary under the conditions of enlarged membership, which has grown from 23 to 41 in only nine years.

To be able to fulfil its mission through concrete action, the Council of Europe will also have to receive more money from governments. It currently spends just over one French franc a year per head for each European it represents. And if you can work out what 8% of one French franc are, that's the cost of our Assembly. Even the most accountant-minded among you could hardly deny that that is very good value for money.

The Council of Europe's myriad of legal and political achievements now affects every possible aspect of our citizen’s lives.

Patience and persistence have woven the fabric of a democratic, stable and prosperous Europe of tomorrow. A fabric so finely knit that it is almost invisible to the eye, yet is strong enough to protect the freedom of those who embrace our values.

What of the future? What will the Council of Europe do? In the late 80s, there was a view that it had become moribund. Then 1989 came and the whole process of integration began giving it a new impetus. In time this will slow down but there will continue to be a need to keep a watch on human rights, their maintenance requires an endless diligence and rights are themselves expanding. For example, in 1949 when the Organisation was established, the death penalty was commonplace among the member States: now it no longer exists. We will have to finish the integration process: certain countries because of size and lack of democratic experience will require more attention than others. The stable acceptance of standards will take longer. Likewise there is a need to complete the membership with some countries still outside in the Caucasus, in the Balkans, Belarus.

There is a tendency for the continental grouping of democratic countries to develop and clearly the Council of Europe might one day represent the European organisations within a world structure.

We do not know the optimum size of the European Union but it is most unlikely that it will be inconclusive and consequently the Council of Europe will require to continue in the short term as a preparation for entry and in the long term as a bridge of dialogue between the Union and those outside.

The relationship with the OSCE is rather more difficult to forecast. It is an organisation favoured by governments because it is controlled by them. Its Assembly only meets annual and is therefore weak and it has no developed *acquis*. Nevertheless, it has, certainly at the moment, a very necessary function in dealing with crises. I rather think that that role will diminish when it is realised that this is an expensive way of tackling problems and that using the Council of Europe in advance is more cost effective and durable.

I am therefore optimistic. I think value in the end will overcome short term pragmatism.