



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



Strasbourg, 28 March 2007

CommDH(2007)1 Rev  
Original languages only (English,  
French or German)

Preliminary discussions between the Commissioner and  
National Human Rights Structures on possibilities  
of enhanced co-operation

German Parliament, Berlin, 11 January 2007

**COMPILATION OF REPLIES TO A  
QUESTIONNAIRE OF THE  
INTERNATIONAL OMBUDSMAN INSTITUTE –  
EUROPEAN REGION**

The Group of Wise Persons<sup>1</sup> suggests (Report, para 43, p 12) that the Commissioner for Human Rights should play a more active role in the Convention's control system. He should intensify the co-operation with national and regional ombudspersons in order to create an active network (Report, para 47)

**1. Is the European convention of protection of human rights and fundamental freedoms introduced into your national law system with the same legal effects as a national law?**

ALBANIA	According to the Article 122 of the Albanian Constitution, the European convention is an integral part of the Albanian legislation system and has the same legal effects as the national legislation
AMSTERDAM	Yes
ANDORRA	<p>La Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales occupe un rang supérieur dans la hiérarchie des normes juridiques à celui des lois nationales. Ainsi, dans l'actuel ordre juridique andorran, la constitution est la norme suprême (art. 3.1 de la Constitution de la Principauté d'Andorre, dorénavant CPA). Aucune disposition d'un traité international ou de tout autre compromis international ne peut la contredire. Il convient préciser que l'article 5 de la CPA prévoit que la Déclaration universelle des droits de l'Homme de 1948 est en vigueur à la Principauté d'Andorre, lui conférant ainsi une valeur constitutionnelle. Se trouvent aussi intégrés dans l'ordre juridique andorran, au même niveau que la dite Déclaration, les Principes de droit international public universellement reconnus.</p> <p>Pour ce qui est de la place occupée par les Traités internationaux, et en particulier par la Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales, l'article 4.1 de la CPA dispose que les traités et accords internationaux ne peuvent être</p>

---

<sup>1</sup> Group of Wise Persons, Interim report of the Group of Wise Persons to the Committee of Ministers CM(2006)88 (Strasbourg 10 May 2006), available at: <https://wcd.coe.int/ViewDoc.jsp?id=998185&BackColorInternet=9999CC&BackColorIntranet=FFBB5>

	<p>dérogés ou modifiés par une loi. Par conséquent, et selon le principe du parallélisme des normes qui prévoit qu'une norme juridique ne peut être modifiée ou dérogée que par une norme de même rang, les instruments internationaux occupent un rang inférieur à la CPA mais supérieur aux lois nationales.</p> <p>En outre, le système juridique andorran suit la conception doctrinale moniste selon laquelle le droit interne et le droit international sont des manifestations d'un même ordre juridique, et les normes y sont subordonnées entre elles. Concrètement la Constitution à l'article 4.1 prévoit l'incorporation du droit international dans la législation interne dès sa publication au bulletin officiel de l'État (article 23.1 et 2 de la Llei qualificada reguladora de l'activitat de l'Estat en matèria de Tractats du 19 décembre 1996). Ainsi la publication officielle d'un instrument international comme la Convention de sauvegarde des Droits de l'Homme et des Libertés fondamentales (publiée au BOPA numéro 83 du 22 décembre 1995) introduit le texte dans l'ordre juridique andorran, sans avoir à le transposer.</p>
AUSTRIA	Yes
BELGIUM	<p>La Convention européenne des droits de l'Homme n'a pas été transposée en tant que telle en droit belge.</p> <p>La Constitution belge reprend la plupart des droits et libertés garantis par la Convention. Les cours et tribunaux belges contrôlent l'application des articles de la Convention ayant un effet direct.</p>
CATALONIA	<p>Spain has been a member of the Council of Europe since the 24<sup>th</sup> November 1977. It ratified the Convention of protection of human rights and fundamental freedoms the 26<sup>th</sup> September 1979. The 1<sup>st</sup> July 1981 it acknowledged the right of individual application before the European Human Rights Court. It has also ratified the additional protocol and the 6<sup>th</sup> protocol, which add new fundamental rights to those guaranteed by the Convention. Spain has signed, but not yet ratified, the protocols number 4, 7, and 13 of the Convention. The</p>

	<p>proceedings leading to the ratification the 14<sup>th</sup> protocol (which modifies the control system of the Convention) are being conducted successfully.</p> <p>Furthermore, Spain has signed and ratified other texts regarding the protection of human rights. In fact, Spain is part of the vast majority of international treaties and conventions with regard to this matter and their articles and dispositions are enshrined in the national legal system. Moreover, the international treaties and settlements concerning human rights are specially safeguarded by the article 10 of the Spanish Constitution. In accordance with article 10 of the Constitution, the rights and freedoms acknowledged in the Spanish Constitution will be interpreted in compliance with all the treaties and conventions ratified by Spain concerning this matter.</p> <p>With regard to the Autonomous Region of Catalonia, the Catalan Statute also acknowledges the rights and freedoms set out by the Spanish Constitution, the European Convention for Human Rights and the other treaties and conventions regarding this matter, which safeguard and guarantee the protection of fundamental rights and freedoms.</p>
CROATIA	The European Convention is a part of internal legal system and from its legal power is above the law /Article 134 of the Constitution of the Republic of Croatia
CZECH REPUBLIC	Yes, it is a part of our constitutional law.
DENMARK	Yes
ENGLAND	Yes.
ESTONIA	The Riigikogu (parliament of Estonia) ratified the Convention for the Protection of Human Rights and Fundamental Freedoms and its additional protocols. According to the Constitution § 3 <sup>2</sup> the

---

<sup>2</sup> Constitution § 3 (1): Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system.

	<p>convention is an inseparable part of the Estonian legal system. Chancellor of Justice exercises supervision over the conformity of legislation with international agreements. So – the Convention has at least same legal effects in a national law.</p>
FINLAND	<p>Yes, it is. Finland ratifies the European convention on protection of human rights and fundamental freedoms (ECHR in the following) on 4 May 1990 and the ECHR entered into force on 10 May 1990. The ECHR was promulgated by a Parliamentary Act of 4 May 1990 (no. 438). Traditional rules of interpretation such as <i>lex posterior</i> and <i>lex specialis</i> can not be mechanically applied. Instead the courts and other authorities should strive to apply law in a basic and human rights “friendly” manner.</p>
FLEMISH REGION	<p>Yes</p>
FRANCE	<p>La Convention européenne a été ratifiée par la France le 3 mai 1974, avec deux réserves consignées dans l’instrument de ratification portant sur le régime disciplinaire dans les armées d’une part, et la mise en œuvre de l’article 16 de la Constitution française (relatif à la mise en œuvre de mesures d’urgence) d’autre part.</p> <p>Comme tout Traité international régulièrement signé et ratifié, la Convention a une valeur « infra-constitutionnelle » et « supra-législative », c'est-à-dire qu'elle est supposée conforme à la Constitution française et qu'elle a une autorité supérieure aux lois nationales.</p>
GREECE	<p>According to the Greek constitution, the European Convention of Human Rights, after its ratification by parliament, has a superior binding effect over ordinary parliamentary statutes within the Greek legal system.</p>
GREENLAND	<p>Yes</p>
HUNGARY	<p>Yes.</p> <ul style="list-style-type: none"> <li>● <u>Act III of 2004</u> on the promulgation of PROTOCOL NO. 13 TO</li> </ul>

	<p>THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENATAL FREEDOMS, CONCERNING THE ABOLITION OF THE DEATH PENALTY IN ALL CIRCUMSTANCES</p> <ul style="list-style-type: none"> <li>● <u>Act XLII of 1998</u> on the promulgation of PROTOCOL NO. 11 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, RESTRUCTURING THE CONTROL MACHINERY ESTABLISHED THEREBY</li> <li>● <u>Act XXXI of 1993</u> on the promulgation of THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AND ITS EIGHT PROTOCOLS</li> <li>● <u>Resolution of Parliament 58/1998 (X. 2.)</u> on the publication of the complex text of the Convention for the protection of human rights and fundamental freedoms</li> </ul>
IRELAND	Yes, by virtue of the European Convention on Human Rights Act, 2003.
LATVIA	Yes. By ratifying convention Parliament issues a law. In such a way convention becomes applicable at national law and has the same legal effect as a national law. Also all the guaranties, which are included in the Convention are introduced also in the Constitution of the Republic of Latvia
LITHUANIA	Yes. The European Convention of protection of human rights and fundamental freedoms is the ratified international treaty, which has the same power as laws in the Lithuanian national law system.
LUXEMBOURG	Yes
MALTA	Yes. The European Convention Act enacted by Malta's House of Representatives on August 19 <sup>th</sup> 1987 made provision for the substantive Articles of the European Convention for the protection of Human Rights and Fundamental Freedoms to become and be

	enforceable as part of the Laws of Malta with the same legal effects as a national law
NETHERLANDS	Yes, the Convention has direct effect in the Netherlands
NORTHERN IRELAND	Yes
NORWAY	Yes. With the adoption, on 21 <sup>st</sup> May 1999 of the law on the reinforcement of human rights protection and its subsequent amendments, four international conventions have been incorporated into Norwegian legislation. Amongst these conventions is the European Convention for the Protection of Human Rights and Fundamental Freedoms
ROMANIA	<p>The European Convention for defending of human rights and individual freedoms was ratified by the Law no. 30/1994, published in the Official Gazette of Romania, Part I, no. 135 on 31 May 1994.</p> <p>According to art. 11 paragraph (2) of the Romanian Constitution treaties ratified by Parliament according to the law are part of national law and in conformity with art. 11 paragraph (1) of the Constitution, the Romanian State pledges to fulfil as such and in good faith its obligations as deriving from the treatise it is a party to.</p> <p>The provisions of art. 20 enshrined in the Constitution state that constitutional provisions concerning citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal declaration of Human Rights, with the covenants and other treaties Romania is a party to. Where any inconsistencies exist between the covenants and treaties on the fundamental rights Romania is a party to, and the national laws, the international regulations shall take precedence, unless the Constitution or national laws comprise more favourable provisions</p>
SCOTLAND	Yes
SLOVAKIA	The Agreement on Human Rights and Fundamental Freedoms from 1950 as amended by its addendum protocol and following protocols

	came into force in our legal order in 1992. According to Art. 153 of the Constitution of the Slovak Republic, the rights and duties resulting from the international agreements that the Czech and Slovak Federal Republic was bound were assigned to the Slovak Republic upon its establishment. Then the Slovak Republic also ratified other protocols to the Agreement with legal consequences identical with the ones of national law
SPAIN	Article 10, paragraph 2, of the Spanish Constitution states: 'Provisions relating to the fundamental rights and liberties recognized by the Constitution shall be construed in conformity with the Universal Declaration of Human Rights and international treaties and agreements thereon ratified by Spain'. The European Convention of Human Rights was ratified by Spain in 1979.
SWEDEN	Yes
TYROL	Yes, on the level of constitutional law
UK	Yes
VOJVODINA	European Convention has the same legal effects as the national law. According to the article 16 of the Constitution, international treaties shall apply directly, and should be in accordance with the Constitution
VORARBERG	Yes, even on the level of constitutional law
WALLON REGION	La Convention européenne des droits de l'homme est bien incorporée au droit national belge avec les mêmes effets que la loi et plus encore : le droit communautaire occupe, dans la hiérarchie des normes, une position prioritaire par rapport à la législation proprement étatique. Les juges nationaux doivent, en cas de conflit entre une disposition interne et une disposition intercommunautaire, accorder la primauté à cette dernière
ZURICH	Die EMRK in der Schweiz: Ja. Die EMRK mit ihren Protokollen (6, 7, 11, 13) ist Teil des nationalen Rechtes. Die EMRK wird direkt angewendet und der Einzelne kann sie gleich wie



	verfassungsmässige Rechte unmittelbar anrufen. Die Freiheitsrechte von Verfassung und EMRK richten sich im Grundsatz gegen staatliche Eingriffe und schützen die privaten Träger vor Übergriffen der Staatsgewalt
--	---

**2. Is your Office entrusted to supervise the correct application by the authorities in your country and to react on allegations of infringements or abuse of the rules and principles of human rights and fundamental freedoms set out in the European Convention?**

ALBANIA	According to the Article 60 of the Albanian Constitution and in compliance with the Article 2 of Law on People's Advocate (Ombudsman), the People's Advocate safeguards the rights, freedoms and lawful interests of individuals from unlawful and improper actions or failures to act of the organs of public administration. Ombudsman jurisdiction covers complaints related to Government, Ministries, Central State institutions; local government bodies where are included Prefects, Municipalities, Communes etc. Without encroaching upon the independence of the judiciary, the People's Advocate accepts complaints, requests or notifications of human rights violations arising from the administration of the judiciary and judicial procedures
AMSTERDAM	Yes
ANDORRA	Bien que le Raonador del Ciutadà n'aie pas expressément la surveillance et l'application de la Convention de la part des autorités du pays, il peut réagir et agir s'il constate l'existence d'une violation ou d'un abus des lois et des principes des Droits de l'Homme et des libertés stipulée par la Convention Européenne
AUSTRIA	Yes, indirectly since infringements of the Convention are considered as "maladministration", though the judiciary is not within the mandate of the Austrian Ombudsman Board, except its administration (e.g. delays of the proceedings).
BELGIUM	Le Médiateur fédéral a pour mission :

	<p>1° d'examiner les réclamations relatives aux actes et au fonctionnement des autorités administratives fédérales ;</p> <p>2° de mener, à la demande de la Chambre des représentants, toute investigation sur le fonctionnement des services administratifs fédéraux qu'elle désigne ;</p> <p>3° en se basant sur les constatations faites à l'occasion de l'exécution des missions visées aux 1° et 2°, de formuler des recommandations et de faire rapport sur le fonctionnement des autorités administratives.</p> <p>Les droits et libertés fondamentales garantis par les textes internationaux et par la Constitution belge font partie intégrante des normes à l'aune desquelles le Médiateur fédéral évalue les actes et le fonctionnement des autorités administratives fédérales (plaignants incarcérés, en situation irrégulière, ...) et rapporte, le cas échéant, à la Chambre des représentants.</p> <p>En ce sens, notre service a vocation à veiller à la correcte application des règles de la Convention européenne des droits de l'homme par les autorités administratives fédérales et a le pouvoir de traiter les réclamations fondées sur une prétendue violation ou abus de ces droits et libertés.</p> <p>Notons cependant que dans la rédaction actuelle de la loi du 22 mars 1995 instaurant des médiateurs fédéraux, leur compétence ne peut s'exercer qu'ex-post, sur la base d'une réclamation ou d'une demande d'investigation de la Chambre des représentants. Le Médiateur fédéral ne dispose pas du pouvoir d'enquêter d'initiative sur des possibles violations des droits de l'homme et libertés fondamentales par une autorité administrative fédérale.</p>
CATALONIA	<p>In the first instance, it is for national courts to protect human rights and ensure the respect for the rights safeguarded in the Convention. The Spanish courts are empowered to defence and protect the human rights set out in the Spanish Constitution by the articles 14-30. These</p>

	<p>are directly implemented by national courts. The Constitutional Court is the highest court, which is to ensure the protection of human rights.</p> <p>Moreover, the Spanish Ombudsman, in accordance with the article 54 of the Spanish Constitution, is entitled not only to monitor the Administration but also to ensure the protection of rights encoded in the Spanish Constitution.</p> <p>As regards the Catalan Ombudsman, this institution is entitled to control the Catalan administration, the public bodies and the private companies which deal with public services. In accordance with its enabling law, the Catalan Ombudsman is also entitled to protect the fundamental rights and the freedoms of citizens.</p> <p>It must be pointed out that since the new Statute of Autonomy of Catalonia came into force on August 9 the control over the Catalan Administration is conferred exclusively on the Catalan Ombudsman.</p> <p>The Catalan Ombudsman was set up not only to address the need for greater control over the Administration but also to ensure the defence of human rights. To meet this purpose, besides the handling of complaints, it can initiate ex-officio actions if there is an abuse or an infringement of the principles of human rights and fundamental freedoms.</p>
CROATIA	Yes, it is in general, although specific formal powers under the Law on the Ombudsman has only toward state and local administration and bodies vested with public powers. That powers does not include judiciary or other legal entities
CZECH REPUBLIC	Czech Public Defender of Rights is only entrusted to supervise acts of public administration institutions. The mandate does not cover the Parliament, the President, the Government and courts (except for state administration of courts)
DENMARK	The ombudsman Office is able to process complaints over any unlawfulness on the part of the authorities. This includes complaints

	based on breaches of the rights set forth in the European Convention on Human Rights.
ENGLAND + SCOTLAND + NORTHERN IRELAND + UNITED KINGDOM	<p>No, not explicitly, but if the Ombudsmen identify Human Rights infringement or breaches during investigation into allegations of maladministration or service failure, they are entitled to comment upon them.</p> <p>There is no explicit power to supervise Human Rights, but the Ombudsmen's powers to investigate maladministration are very wide, enabling them to consider alleged breaches of Human Rights.</p> <p>The Equality Act 2006 establishes the new Commission for Equality and Human Rights (CEHR), covering non-devolved matters in England, Scotland and Wales, which will come into being in October 2007. A Scottish Commission for Human Rights will deal with devolved matters in Scotland. In Northern Ireland a Human Rights Commission has been in existence since 1999. Its role is to promote awareness of human rights in Northern Ireland, to review existing law and practice and to advise government on what steps need to be taken fully to protect human rights in Northern Ireland.</p>
ESTONIA	<p>Chancellor of Justice Act § 33 enacts that the Chancellor of Justice verifies whether or not agencies under supervision adhere to the principles of observance of the fundamental rights and freedoms and principles of sound administration. Chancellor of Justice Act § 19 subsection (1) says that everyone has the right of recourse to the Chancellor of Justice in order to have his or her rights protected by way of filing a petition to request verification whether or not a state agency, local government agency or body, legal person in public law, natural person or legal persons in private law performing public duties adheres to the principles of observance of the fundamental rights and freedoms and to the principles of sound administration. Hence the Office of the Chancellor of Justice supervises also application of the Convention.</p>

FLEMISH REGION	The Flemish Ombudsman Service has no explicit human rights mandate. He investigates complaints about the acts and the operation of the administrative authorities of Flanders. Complaints about violations of human right aren't excluded, but are very rarely. There are other institutions for that kind of complaints, brought to him as such. Since these principles are a part of the Belgian legal order, he will evaluate their application in specific complaints.
FINLAND	Yes it is. Pursuant to Section 109, subsection 1 of the Finnish Constitution, the Ombudsman shall ensure that the courts of law, the other authorities and civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of his or her duties, the Ombudsman monitors the implementation of basic rights and liberties and human rights.
FRANCE	<p>La loi du 3 janvier 1973, instituant un Médiateur de la République, ne cite d'ailleurs pas la défense des droits de l'Homme parmi les missions confiées à l'institution.</p> <p>Dans la pratique cependant, le Médiateur est considéré comme ayant un « devoir de vigilance » en matière de libertés publiques et de droits de l'Homme. Le pouvoir politique a d'ailleurs pris en compte cette évolution et décidé, il y a plusieurs années, que le Médiateur serait dorénavant membre de droit de la Commission Nationale Consultative des Droits de l'Homme (CNCDH). Cet organe consultatif est saisi par le gouvernement, ou peut s'autosaisir, de toute question relative aux droits humains, à la bioéthique, à la lutte contre le racisme, etc.</p> <p>Le Médiateur n'a donc pas en la matière de pouvoir juridique, mais dispose d'un fort pouvoir moral.</p>
GREECE	Yes, but mainly on an ad hoc basis, through the investigation of individual complaints. More general supervision is effected, though,

	in an indirect way, through special reports on categories of cases and the yearly report on the Ombudsman activities addressed to parliament.
GREENLAND	The primary function is to monitor, whether the administrative bodies are guilty of errors or derelictions in the performance of their duties. This includes complaints based on alleged violations of the rights set forth in the Convention.
HUNGARY	<p>According to Section 1 of the Act LIX of 1993 on the Parliamentary Commissioner for Civil Rights: It shall be the duty of the Ombudsman for Civil Rights (hereinafter “Ombudsman”) to investigate or to have investigated any abuses of constitutional rights, he has become aware of, and to initiate general or particular measures for the redress thereof (paragraph (1) of Article 32/B of the Constitution.)</p> <p>Section 16 of the Act LIX of 1993:</p> <p>(1) Anybody may apply to the ombudsman if in his judgment he suffered injury in consequence of the proceedings of any authority (subsection (1) of Section 29) or organ performing public service (hereinafter together “authority”), or its decision (measure) taken in the course of the proceedings and/or of the omission of the measure of the authority in connection with his constitutional rights, or if a direct danger thereof exists, provided that he has exhausted the available possibilities of administrative legal remedies – except for the judicial review of an administrative resolution – or that no legal remedy is ensured for him.</p> <p>(2) In order to terminate an abuse connected with the constitutional rights the ombudsman may act also ex officio in case of the existence of the conditions indicated in subsection (1).</p>
IRELAND	No, not specifically; the Convention Rights are enforceable through the courts. In addition, the Irish Human Rights Commission has the power to assist persons with the enforcement of those rights and to

	<p>initiate court proceedings on behalf of a person or class of persons. The Commission also has a role in promoting awareness of human rights in Ireland. The Ombudsman's primary role is to investigate complaints of maladministration. However, if following an investigation. The Ombudsman's finds that a complainant has been adversely affected by the actions of a public authority and, as part of that process, she also concludes that the complainant's human rights have been infringed, she will comment explicitly and may recommend appropriate redress.</p>
LATVIA	<p>According to the Article 1 of the Law on the Latvian National Human Rights Office (hereinafter - LNHRO) “LNHRO is an independent state institution, promoting the observance of the fundamental rights and freedoms of individuals and citizens in the Republic of Latvia in accordance with the Constitution, international treaties and legislation of the European Union in the field of human rights”.</p> <p>On 1 January, 2007, in place of LNHRO, there will be established Ombudsman office. According to the Article 11 of the Ombudsman Law, this institution will deal with issues related to observance of human rights and the principle of good administration. One of main tasks of the Ombudsman office will be promotion of the public awareness and understanding of human rights, and of the mechanisms for the protection of such rights.</p>
LITHUANIA	<p>Part 1 of the Article 73 of the Constitution of the Republic of Lithuania stipulates that complaints about the abuse of office by and bureaucracy of officers (except judges) of state and municipal institutions are investigated by the Seimas Ombudsmen. Rights of the Seimas Ombudsmen are set by the Law on the Seimas Ombudsmen.</p> <p>The purpose of activities of the Seimas Ombudsmen is to protect a person's right to good public administration securing humans rights and freedoms, to supervise fulfilment by state authorities of their</p>

	<p>duty to properly serve the people.</p> <p>As an independent constitutional institution the Seimas Ombudsmen's Office protecting human's rights and freedoms within their competence also perform supervision of application of the European Convention for the Protection of Human Rights and Fundamental Freedoms and react to complaints about violations or abuse of power following rules and principles of human rights and fundamental freedoms defined in the Convention.</p>
LUXEMBOURG	Yes
MALTA	<p>No, not directly. The Malta Constitution (1964) includes entrenched provisions for the protection of fundamental rights and freedoms of the individual. It provides that any person who alleges that any of these rights and freedoms has been, is being or is likely to be contravened in relation to him can apply to the Civil Court, First Hall, that shall have original jurisdiction to hear and determine that application. That Court is empowered to provide for adequate means of redress to secure the enjoyment of those rights and freedoms. The Constitution provides for a right of appeal directly to the Constitutional Court from the judgment given by the Court of first instance. The same right of individual petition is extended to any individual who alleges a contravention of any fundamental right or freedom guaranteed by the European Convention. The same judicial procedure applies/</p> <p>Yes, indirectly. My Office is required to ensure the correct application by the authorities of fundamental rights and to react to allegation of infringements or abuse of the rules and principles governing human rights and freedoms in so far as there are reflected in the exercise of the fundamental right of every individual to good administration. In effect the Ombudsman Act (Act XXI of 1995) incorporates these rules and reflects these principles.</p>
NETHERLANDS	Yes although there is no special reference in the Dutch Law that



	states that the ombudsman should supervise the application of the Convention. It should be noted that in most cases the National Ombudsman is not competent to deal with a case when it is dealt with in court
NORWAY	<p>Yes. Section 3 of the Ombudsman's Act states that the main objective of the Ombudsman's activities is to prevent injustices and errors on the part of public administration against the individual citizen. In 2003, the Ombudsman's Act was amended, and it now also explicitly states that the Ombudsman's work includes ensuring that human rights are respected.</p> <p>The Parliamentary Ombudsman has the entire public administration service as his field of operation; locally, regionally and centrally, and he deals with cases in all areas of public administration.</p> <p>However, there are some limitations as to the Ombudsman's scope of powers. The most important in this relation being that complaints arising from private disputes and decisions by the courts of law, e.g. criminal proceedings, can not be investigated by the Ombudsman.</p>
ROMANIA	<p>The constitutional and legal role of the People's Advocate is to defend individuals' rights and freedoms in their relationships with the public administration authorities. By using special means of action, People's Advocate verifies the observance of the individuals' rights and freedoms, including those provided by the European Convention, by the public administration authorities. Hence, the People's Advocate has the right to carry out his own inquiries, to request the public administration authorities any information or documents necessary to the inquiry, to conduct hearings and to take depositions from the officials of public administration authorities, as well as from any civil servant who can provide information necessary for solving the complaint. Additionally, in the performance of its duties, the People's Advocate issues recommendations that cannot be submitted either by parliamentary or judiciary control.</p>

	<p>Through the recommendations issued, the People's Advocate notifies the public administration authorities about illegalities relative to the administrative acts or facts.</p> <p>Furthermore, in the event that the People's Advocate determines that the resolution of a complaint involves the competence of judicial authorities, he can, as the case may be, address the Ministry of Justice, the Public Ministry or the president of a court of law, that are obliged to communicate the taken measures. This represents a legal method through which the aforementioned authorities can support the People's Advocate in the resolution of complaints involving the infringement of rights to a fair trial, in a reasonable term as provided by art. 6 of the European Convention for defending human rights and fundamental freedoms, validated by the provisions of art. 21 paragraph (3) of the Romanian Constitution.</p> <p>Additionally, the People's Advocate is involved in the constitutional control of laws and ordinances performed in Romania by the Constitutional Court. Hence, the People's Advocate formulates opinions on the exceptions of unconstitutionality regarding provisions of laws and ordinances issued in the area of human rights, can bring up directly before the Constitutional Court, exceptions of unconstitutionality, and can address to the Constitutional Court, objections of unconstitutionality regarding certain provisions of laws adopted by the Parliament, before their promulgation by the Romanian President.</p>
SLOVAKIA	<p>According to the Constitution of the Slovak Republic and the Act on Public Defender of Rights the Public Defender of Rights in the Slovak Republic protects the fundamental rights and freedoms as defined in the Constitution of the Slovak Republic and international agreements that the Slovak Republic is bound with. According the above stated, the public defender of rights is entitled to monitor</p>

	<p>correct application of the Agreement on Human Rights and Fundamental Freedoms by the public administration bodies of the Slovak Republic. He is entitled to review motions drawing attention to the breach or abuse of the rules and principles of human rights and fundamental freedoms anchored in the Agreement. He can also act upon his own initiative</p>
SPAIN	<p>Yes. The Defensor del Pueblo (Spanish Ombudsman) is in the charge of the defence and protection of fundamental rights and freedoms included in the Spanish Constitution of 1978 (art. 54), which must be always interpreted under the principles of the Universal Declaration of Human Rights.</p>
SWEDEN	<p>Yes</p>
TYROL + VORARLBERG	<p>In the constitutional provision about the Landesvolksanwalt (Art. 59 – 61 of the Constitution of the Land of Vorarlberg) and the law about the Regional Ombudsman (Gesetz über den Landesvolksanwalt, LGBI Nr 29/1985) Human Rights are not mentioned. Since administrative actions violating the law are always a case of “maladministration” (“Missstand” as formulated in the regional Constitution and law), violating constitutional rights (which include Human Rights and Freedoms and the European Convention) is an especially severe case of maladministration. Therefore, my office is entrusted to supervise the application of the European convention</p>
VOJVODINA	<p>The Office of Provincial Ombudsman is entrusted to supervise the correct application by the authorities, and to react on allegations of infringements or abuse of the rules and principles of human rights and fundamental freedoms set out in the European Convention.</p> <p>The article 1. of the Decision on the Provincial Ombudsman states that:</p> <p>“The Provincial Ombudsman shall be established ( hereinafter: Ombudsman ) as an independent and self-reliant body which sees to the protection and promotion of human rights and freedoms of each</p>

	<p>individual guaranteed by the Constitution, by ratified and published international treaties on human rights and by the law and regulations of the Autonomous Province of Vojvodina (hereinafter: Province).</p> <p>The Ombudsman shall particularly protect human rights and freedoms from paragraph 1 of this Article (hereinafter: human rights) from violation committed by provincial and municipal administration, organizations and public services which execute administrative and public authority and which are founded by the Province or municipalities (hereinafter: administrative bodies).</p> <p>For the purpose of protection and promotion of human rights, the Ombudsman shall monitor the implementation of regulations from paragraph 1 of this Article, supervise the legality, appropriateness and efficiency of the work of the administrative bodies and may investigate the work of administrative bodies in order to protect human rights.”</p>
WALLON REGION	<p>Non, l’Institution de Médiateur de la Région wallonne n’a pas été habilitée expressément ni par la Constitution ni par le Décret régional wallon du 22 décembre 1994 créant l’Institution, à lutter contre les abus et violation des droits de l’Homme.</p> <p>Mais le Médiateur peut se référer aux principes de droits de l’Homme. Par ailleurs, l’article 23 de la Constitution consacre les droits fondamentaux de la deuxième génération, c’est-à-dire les droits économiques et sociaux. La Belgique est un Etat fédéral, au sein duquel la Région wallonne est compétente pour certains droits économiques et sociaux. Il en résulte qu’en cas de mauvaise administration ou de maladministration, en matière de droits économiques et sociaux, le Médiateur de la Région wallonne peut intervenir auprès des administrations régionales wallonnes, pour dénoncer les dysfonctionnements.</p>
ZURICH	<p>Zuständigkeit der Ombudsstelle, behaupteten EMRK-Menschenrechts-Verletzungen nachzugehen: Ja. Die Ombudsstelle</p>

	hat die Kompetenz, alle Beschwerden gegen eine Amtsstelle der Stadt Zürich zu überprüfen, namentlich auch solche betreffend Verletzung der Menschenrechte
--	---

**3. Are there any obstacles for your Office to co-operate with the Commissioner for Human Rights on equal terms, as suggested?**

ALBANIA	The co-operation between the Office of People's Advocate of Albania and the Commissioner for Human Rights, has been and is excellent (beginning with former Commissioner Alvaro Gil Robles and with actual one Mr. Thomas Hammarberg). It means that there are no obstacles
AMSTERDAM	No
ANDORRA	Nous ne trouvons pas d'obstacle dans le fait que le Commissaire des Droits de l'Homme maintienne une coopération plus étroite avec les ombudsmans nationaux et régionaux, puisque l'actif travail du système de contrôle de la Convention pourrait en être bénéficié
AUSTRIA	There are no obstacles at all for a co-operation on the dissemination of appropriate information on human rights and on alleged violations and abuses. The Austrian Ombudsman Board publishes already for years its observations in the field of human rights in the annual reports to the parliament
BELGIUM	<p>Le paragraphe 47 du rapport provisoire prévoit que le Commissaire pourrait étendre sa collaboration actuelle avec les médiateurs nationaux et régionaux et les institutions similaires afin de former un réseau actif dans le futur, dont la tâche serait de diffuser l'information appropriée sur les droits de l'homme et, dans la mesure de la compétence de ses membres, sur des prétendus violations et abus.</p> <p>Il n'y a pas d'obstacle à la coopération du Médiateur fédéral avec le Commissaire aux droits de l'homme pour autant qu'elle s'inscrive dans les compétences et missions actuelles de l'institution.</p>

CATALONIA	<p>The Catalan Statute sets out the cooperation with the local, regional, and national ombudsmen, as well as with other analogous institutions. The Catalan Ombudsman can cooperate with the Commissioner in his defence of human rights, but it is not sure that this would guarantee a workload relieve for the European court. The ombudsman can also ensure effective filtering of cases by the reaching of friendly settlements between parties in litigation. However, the ombudsman can do little if the parties prefer a judicial resolution of their case.</p>
CROATIA	No, there are not
CZECH REPUBLIC	<p>No obstacles – we can provide information in English about problems related to human rights on national level which will arise from the complaints and from our inquiries. We can also spread the information about the European Court of Human Rights’ mandate and admissibility criteria in Czech (which we already do, in fact)</p>
DENMARK	<p>The Danish ombudsman is not able to consider complaints which have been brought before the national courts. The Ombudsman therefore cannot consider whether the judgments of the Strasbourg court have been correctly applied by the Danish courts</p>
ENGLAND + NORTHERN IRELAND + UNITED KINGDOM	<p>General information on human rights and on alleged violations and abuses could be shared. However, the UK Ombudsmen’s legislation prevents the sharing of specific casework information obtained during or for the purposes of an investigation, even with other Ombudsmen, except in very limited circumstances (none of which would apply here).</p> <p>The Ombudsmen could have a role in working with the Commissioner to identify a specific problem in a State likely to trigger a large number of applications to the Court and help to find a solution to the problem at national level. To some extent, this is an extension of the Ombudsmen’s current, wider role to improve public services.</p>

ESTONIA	<p>There are no legal obstacles for more active co-operation. Of course, the scope and extent of co-operation depends on resources and budget of our office as well.</p>
FINLAND	<p>Section 29 of the Act on the Openness of Government Activities concerns granting access to secret information to some other officials than those specifically governed in the Act. Under subsection 1(3) an authority may grant access to a secret document to some other authority, if the document is necessary for the consideration of a matter pertaining, e.g., to a complaint made to an international body for the administration of justice or investigation.</p> <p>Section 30 of the Act on the Openness of Government Activities provides that in addition to the specific statutory provisions on the same, an authority may grant access to a secret official document to an authority of a foreign state or to an international institution, if an international agreement binding on Finland contains a provision on such co-operation between Finnish and foreign authorities, or there is a provision to this effect in an act binding on Finland, and if the Finnish authority in charge of the co-operation could under this Act have access to the document.</p> <p>Notwithstanding the fact that under the aforementioned Sections the right of the Finnish Ombudsman to grant access to secret information to the Commission for Human Rights may not be self-evident in all cases, the nature of the information provided by the Ombudsman to the Commissioner for Human Rights will probably allow the disclosure of information in most cases.</p>
FLEMISH REGION	No
FRANCE	<p>Le § 47 du Rapport du Groupe évoque la possibilité pour le Commissaire de constituer un réseau actif avec les médiateurs et ombudsmans nationaux et régionaux afin de diffuser l'information nécessaire en matière de droits de l'Homme et, dans la mesure où</p>

	<p>leurs compétences le permettent, de leurs violations éventuelles.</p> <p>Une coopération plus étroite avec le Commissaire aux droits de l'Homme serait, d'une manière générale, très souhaitable afin d'une part de renforcer la sensibilisation des autorités nationales et des citoyens à la problématique des droits de l'Homme et, d'autre part, de renforcer le mécanisme de contrôle de la Convention face à l'augmentation considérable des plaintes portées devant la Cour européenne.</p> <p>Il faut cependant noter que, dans le cas français, cette coopération pourrait trouver certaines limites :</p> <ul style="list-style-type: none"> <li>- elles tiennent d'abord au fait que la loi de 1973, instituant un Médiateur de la République, ne lui confère pas de fonctions explicites en matière de droits de l'Homme. Le Médiateur souhaite que la loi étende ses compétences dans ce domaine.</li> </ul> <p>elles tiennent ensuite à la délimitation des compétences que la loi reconnaît au Médiateur de la République. Le Médiateur ne peut, ainsi, intervenir dans une affaire opposant un agent public à l'administration ou au service qui l'emploie (art. 8); il ne peut intervenir dans une procédure engagée devant une juridiction ni remettre en cause le bien-fondé d'une décision juridictionnelle (art.11); enfin, s'il peut commander des enquêtes et obtenir communication de documents, le caractère secret d'informations relevant de la défense nationale, de la sûreté de l'État ou de la politique extérieure lui est opposable (art . 12 et 13). Ces limitations, en revanche, ne sont pas remises en cause par le Médiateur.</p>
GREECE	<p>There is no obstacle whatsoever for such cooperation as long as it rests on an informal basis or on a basis of "gentlemen agreement". Legally binding procedures of cooperation though will probably necessitate some formal agreement with the involvement of the</p>



	Greek Ministry of Foreign Affairs.
GREENLAND	<p>The suggestions as laid down in para. 48 of the interim report seem to fall somewhat outside the current competence of the Ombudsman, as it presupposes involvement in the political process to identify and help resolving specific national problems. As far as the commissioner's suggestions (in para. 4) are concerned the Ombudsman has no jurisdiction over the political system and thus cannot monitor whether or not the judgments from the Court are effectively implemented e.g. by help avoiding the adoption of or putting an end to legislation. In that event where implementation is possible merely through a change in the administrative practice the control of the right implementation is within the Ombudsman's jurisdiction. According to the Greenland Home Rule Act<sup>3</sup> section 7 the central authorities of the Realm may after negotiation with and consent from the Home Rule determine that jurisdiction in a not yet transferred field can be transferred to the Home Rule authorities. So far the judicial system is still within the jurisdiction of the Realm. Thus the Ombudsman is not competent to monitor the judicial system and cannot consider whether judgments from the ECHR have been correctly applied by the national courts. (Even if the judicial system had been transferred to the Home Rule, the Ombudsman would most likely be incompetent as is the Danish Ombudsman (section 7(2) in the Danish "The Ombudsman Act"). Participation in the Ombudsman network with the purpose of examining and comparing whether or not an individual case reflects a widespread situation would be within the competence. Dissemination of information on the Court's mandate, admissibility criterions and so forth is an obvious option, even though more natural falls under the purpose of the legal aid offices</p>

---

<sup>3</sup> Act No. 577 of 29 November 1978 (enclosed as appendix 1)

HUNGARY	No, there aren't. Co-operative relations between other organs of legal protection have also great significance. At the same time it is important to clarify the relations of these organs with each other.
IRELAND	In principle, it seems unlikely that any obstacles would arise although at this point it is not entirely clear what the practical arrangements for co-operation would entail. The Ombudsman would have no difficulty in sharing general information about casework, including trends arising from individual cases, significant systemic issues and details of individual published cases from, for example, her Annual Reports. However, the Office is precluded from disclosing information obtained in the course of an investigation except in the context of publishing the outcome of the investigation to the complainant or to a wider audience. In practice, this prohibition is not likely to be an obstacle to co-operation with the Commissioner. On the positive side, those ombudsman offices with no specific competence in relation to human rights are likely to benefit significantly from co-operation with the Commissioner. Co-operation would promote a greater awareness of where maladministration and human rights intersect. It would also facilitate those offices in taking a more expansive view of their remit.
LATVIA	No.
LITHUANIA	There are no obstacles.
LUXEMBOURG	No
MALTA	There are absolutely no obstacles for such co-operation in so far as this is required in matters that fall within the functions of the Malta Ombudsman as laid down by law. Such co-operation would be and is considered to be a duty. I must however note that the law as it stands limits my functions to investigate any action taken by or on behalf of the government or other authority, body or person over which the Government has effective control. This "action has to be taken in the exercise of their administrative function."

NETHERLANDS	<p>No there does not seem to be an obstacle, although specific knowledge on the Convention would have to be further developed inside the office. The staff of the Dutch National Ombudsman is knowledgeable on the Convention but is not trained to ascertain whether a case is likely to lead to application to the Court. Furthermore as the workload would grow, the office would need to employ more people and thus need a bigger budget.</p>
NORWAY	<p>The position as Parliamentary Ombudsman is a personal appointment made by the Parliament. The Directive to the Parliamentary Ombudsman for Public Administration § 9 also states that the Ombudsman shall personally render a decision on all cases proceeding from a complaint or cases that he takes up on his own initiative.</p> <p>The Parliamentary Ombudsman submits his reports to the Parliament. Apart from this, the Ombudsman shall discharge his duties autonomously and independently of the Parliament.</p> <p>Besides these limitations, the Ombudsman welcomes a closer co-operation with the Commissioner for Human Rights with regards to sharing information and strengthening the Ombudsman's work in ensuring that human rights are respected</p>
ROMANIA	<p>According to its Rules on organising and functioning, the People's Advocate can take part at the activity performed by the international organisation in its area of activity. These cooperation relationships shall be performed within the limits provided by the law on the People's Advocate independence and autonomy</p>
SCOTLAND	<p>General information on human rights and on alleged violations and abuses could be shared. However, the UK Ombudsmen's legislation prevents the sharing of specific casework information obtained during or for the purposes of an investigation, even with other Ombudsmen, except in very limited circumstances (none of which would apply here). However, the Ombudsman would comment on</p>

	<p>general trends/issues relating to the human rights aspects of complaints.</p> <p>The Ombudsmen could have a role in working with the Commissioner to identify a specific problem in a State likely to trigger a large number of applications to the Court and help to find a solution to the problem at national level. To some extent, this is an extension of the Ombudsmen's current, wider role to improve public services.</p>
SPAIN	No
SWEDEN	There would not, in principle, be any problem for our Office to CO-operate with the Commissioner on equal terms. We would, however, prefer that such CO-operation to take place between the Commissioner and the already existing network between European ombudsmen within the European Chapter of the 101, rather than establishing a new network for this specific purpose.
TYROL + VORALBERG	There are no obstacles
VOJVODINA	There are no obstacles for the Office of Provincial Ombudsman to cooperate with the Commissioner for Human Rights, as suggested
WALLON REGION	<p>Les réponses aux 3<sup>ème</sup>, 4<sup>ème</sup>, 5<sup>ème</sup> et 6<sup>ème</sup> questions sont identiques, à savoir qu'en droit administratif belge, il y a ce que l'on appelle le principe de spécialité. Le décret qui a créé l'Institution de Médiateur de la Région wallonne a imposé à cette Institution un rôle de médiation et n'a pas prévu des procédures de collaboration, d'envois d'informations et de coopérations avec le Commissaire aux droits de l'Homme. Certes une autorité publique (telle que l'Institution de Médiateur de la Région wallonne) peut faire tout ce que peut faire une personne privée (comme conclure des contrats, des accords, etc). Cependant, le principe de spécialité signifie que n'importe quelle autorité publique ne peut pas, sans y être autorisée expressément par un texte, aller conclure des conventions et « discuter » avec des</p>

	<p>autorités internationales. Cependant, le Médiateur de la Région wallonne pourrait recommander qu'une procédure soit mise en place à cet effet.</p> <p>Il est à souligner que l'article 11 du Règlement d'ordre intérieur de l'Institution du Médiateur de la Région wallonne énonce d'ailleurs : « dans la mesure où cela peut contribuer à renforcer l'efficacité de ses enquêtes et à mieux sauvegarder les intérêts et droits des personnes physiques ou morales dont la réclamation est fondée, le Médiateur peut coopérer avec d'autres Médiateurs ».</p>
ZURICH	<p>Hindernisse für die Ombudsstelle für die vorgeschlagene Zusammenarbeit mit dem Menschenrechtskommissar: Bezügl. Report Ziff. 48 (spezifische Menschenrechtsprobleme auf nationaler Ebene): Die Ombudsstelle der Stadt Zürich ist keine nationale Ombudsstelle, weshalb die konkrete Zusammenarbeit mit dem Menschenrechtskommissar in Absprache mit den entsprechenden eidgenössischen Institutionen geschehen sollte. Bezügl. Report Ziff. 49 (Information, Förderung von Mediationslösungen): Eine direkte Information der Ombudsstelle durch den Kommissar zu spezifischen Menschenrechtsfragen der Schweiz wäre wünschenswert. Bezügl. Report Ziff. 47 (Ombuds-Netzwerk): Zusammenarbeit mit den Ombudsvereinigungen, die bereits auf allen Ebenen bestehen: I.O.I., E.O.I. und Schweizerische Vereinigung Parlamenatrischer Ombudsleute (SVPO).</p>

**4. Can you imagine working in even closer co-operation with the Commissioner than suggested by the Group of Wise Persons (Report, para 48)?**

ALBANIA	The Office of People's Advocate has the opinion that the close co-operation with the Commissioner for Human Rights, as suggested by the Group of Wise Persons is absolutely right.
AMSTERDAM	Yes, especially co-operation with the local ombudsmen for problems arising at a local level.
ANDORRA	Toute coopération entre le Commissaire et les médiateurs nationaux et régionaux serait une bonne formule.
BELGIUM	<p>Le par. 48 du rapport suggère deux tâches spécifiques pour le futur réseau.</p> <p>1° contribuer à réduire la charge de travail de la Cour en collaborant avec le Commissaire à la recherche de solutions à l'échelon national à un problème spécifique susceptibles de générer un nombre élevé de procédures devant la Cour (§48, 1°)</p> <p>Premièrement, cette collaboration ne pourrait s'inscrire que dans le cadre de violations de la Convention commises par une autorité administrative fédérale. Le Médiateur fédéral n'a pas de mandat général de promotion et de protection des droits de l'homme.</p> <p>Deuxièmement celle-ci exigerait, vu l'absence de pouvoir d'enquête d'initiative dans notre loi organique, soit que le Commissaire invite la/les personnes concernées par la possible violation de la Convention, à introduire une réclamation auprès du Médiateur fédéral, soit qu'il saisisse lui-même (éventuellement comme intermédiaire des personnes intéressées) le Médiateur fédéral. Il convient dans ce cas de vérifier si le mandat du Commissaire lui permettrait d'agir en cette qualité.</p> <p>2° informer le public sur le droit d'agir devant la Cour en distribuant des formulaires de requêtes et, surtout, en informant le public sur le mandat et la compétence de la Cour et sur les critères d'admissibilité/recevabilité prévus dans la Convention (§48, 2°).</p>

	<p>Le Médiateur fédéral n'a pas de mandat explicite de promotion des droits de l'homme. Il n'a pas davantage de mission d'information ou d'éducation du public. Aucune action d'information active sur ce sujet ne paraît donc envisageable. Par contre, dans le cadre du souci général d'aiguiller utilement le citoyen qui s'adresse à lui, il peut parfaitement distribuer l'information mise à sa disposition par la Cour ou le Commissaire aux citoyens confrontés à l'éventualité d'un recours devant la Cour.</p>
CATALONIA	<p>The Commissioner visits different institutions and bodies of the country and when there is an abuse or an infringement of human rights, he draws up recommendations addressed to the Spanish Authorities. Several times, he takes into account the recommendations set out by the Spanish Ombudsman and regional ombudsmen.</p> <p>The suggested cooperation does not represent an interference with the independence of our institution because it serves the purpose of providing the exchange of information and the implementation of the above mentioned rights. However, it would be useful to draw up a collaboration agreement between the Commissioner and the Ombudsman institutions in order to achieve a more intensive collaboration. In that respect, we suggest that the contacts between the Commissioner and the Ombuds institutions should be intensified so that the Ombudsman could provide the Commissioner with useful information regarding a forthcoming visit of the Commissioner to the Ombudsman's country. It must be highlighted that the Ombuds institutions at all levels have interesting information to provide the Commissioner with.</p>
CROATIA	On principle, yes I can
CZECH REPUBLIC	No. We could for example hardly help with enforcing the Court's decisions in practice or with informing citizens about the Court's decisions due to lack of mandate and capacity

ENGLAND + NORTHERN IRELAND + SCOTLAND + UNITED KINGDOM	Advice from the Commissioner on the national Ombudsmen's approach to Human Rights would be welcome. In general, we would wish the work of the respective bodies to complement one another.
ESTONIA	The co-operation could be even closer, but it must not restrict independency of the Chancellor of Justice <sup>4</sup> . I am on the opinion that ECHR system is subsidiary – initial protection to human rights must be granted by member states. The effectiveness of national measures helps to decrease the number of cases in ECHR. The better work Ombudsman does – the more effective ECHR is.
FINLAND	I can subscribe to the idea of even closer co-operation, if needed.
FLEMISH REGION	No, because our Service has no explicit mandate.
FRANCE	<p>Le Rapport suggère, afin d'aider à réduire la surcharge du travail de la Cour, une aide du « réseau » des médiateurs et ombudsmans visant à :</p> <ul style="list-style-type: none"> <li>- identifier les éléments, spécifiques à tel pays, et qui « déclenchent » un grand nombre de plaintes dans ce pays ;</li> <li>- informer le public sur les possibilités de saisir la Cour, par la distribution, par exemple des formulaires de plainte ;</li> <li>- informer, surtout, sur les champs de compétence de la Cour et les critères de recevabilité des plaintes.</li> </ul> <p>Ces suggestions sont en effet de nature à aider à réduire la charge de travail de la Cour. Il faut noter que ce travail d'information et de sensibilisation est déjà celui du Médiateur qui considère que sa mission est aussi de faciliter l'accès aux droits. Mais, compte tenu</p>

---

<sup>4</sup> According to the Constitution § 139 (1) the Chancellor of Justice shall be, in his or her activities, an independent official.



	<p>des réserves énoncées plus haut, la « systématisation » de ce travail d'information et de sensibilisation au profit, spécifiquement, de la CEDH, pourrait poser des problèmes d'organisation et de moyens.</p> <p>D'une façon générale, le défi pour la CEDH est sans doute de répondre à ce flux de saisines en obtenant les moyens de le faire, plutôt que de tenter de limiter ce flux. Il y a une vraie demande d'accès aux droits dans nos sociétés et nous ne devons pas ignorer cette attente.</p>
GREECE	<p>Yes, besides the Greek Ombudsman has already developed wide cooperation schemes with the Commissioner through the "Eunomia Project" (Promotion of Ombudsman type institutions in South Eastern Europe).</p>
GREENLAND	<p>Yes. Though mostly in an informative manner, as any other initiatives probably requires extension of the Ombudsman's mandate.</p>
HUNGARY	<p>Yes. The Commissioner could mediate the initiatives of national ombudsmen towards the Council of Europe if its action is justified in the interest of the emergence of certain rights.</p>
IRELAND	<p>The ideas in para 48 are worth exploring although it is not clear at this point how they would work in practice. However, there are some potential problems which will need further consideration. The para 48 proposal seems to envisage an interventionist or proactive role by ombudsmen, in conjunction with the Commissioner, to finding a solution at national level to a specific problem which is likely to trigger a large number of applications to the Court. However, ombudsmen, in the main, are not proactive; they are reactive. Specifically, the Irish Ombudsman's Office is complaint driven and although the Office has the power of own initiative this is used sparingly. Thus, there may be practical limits to the extent to which the Ombudsman can influence the outcome of a problem which has not been the subject of complaint to her Office in the first instance or the subject of an own initiative investigation. It is not entirely clear</p>

	<p>what specific role the Committee envisages for the ombudsmen in this context. However, if this role is not strongly linked to the complaint driven function of the ombudsman, it may not be fully effective. Ombudsmen could play a useful role in disseminating information to the public about the Court. However, the Ombudsman's view is that this is more properly a function of public authorities themselves. Basic principles of good administration require public authorities to disseminate information about rights of appeal etc. In this context, while the Ombudsman would be happy to work with the Commissioner to increase awareness of the Court's mandate etc., she would seek through her Annual Reports and other means, to place a greater onus on public authorities to play a fuller role in this process also.</p>
LATVIA	<p>Yes, if it will be necessary. We provide annual reports on human rights issues, where is included also information on problems in Latvia – concerning normative acts and implementation of them.</p>
LITHUANIA	<p>We believe that there could be exchange of information about problem solving experience in different countries.</p>
LUXEMBOURG	<p>I don't think that it would be useful to go beyond the cooperation as suggested by the GWP.</p>
MALTA	<p>Yes. So long as the closer co-operation envisaged falls within the competence of the Ombudsman. Such co-operation would be putting into practice the principle of subsidiarity and would ensure that the Commissioner would have reliable, effective and impartial reference point on the state of the observance of human rights and freedoms at a national level. The cross fertilization of ideas in this area depends on the correct dissemination of factual information. Very often misinformation leads to incorrect assessments and conclusions. In this context it is also important that the existing structures of the national and regional ombudsman institutions be verified to ensure that they can act independently of the administration and that their</p>

	opinions are and are seen to be objective and impartial. The suggested co-operation can only be maximized if it is ensured that all Ombudsmen have an explicit human rights mandate.
NETHERLANDS	Yes
NORWAY	If the experiences drawn from the suggested co-operation between the Commissioner and the regional ombudsmen are good, an even closer co-operation should be considered.
SLOVAKIA	The Office of the Public Defender of Rights in the Slovak Republic inclines to and supports closer co-operation with the European Commissar for Human Rights, he sees no obstacles in this co-operation in the general line. After the elaboration of certain proposals for co-operation, it is possible to deal with the question of possible solving of obstacles in the co-operation of the national ombudsman of the Slovak Republic with the European Commissar on a qualified level.
SPAIN	Of course, the Defensor del Pueblo is fully open to increase cooperation with all transnational institutions devoted to the promotion of Human Rights.
SWEDEN	With regard to the different means suggested by the Group of Wise Persons by which the network of ombudsmen could help reduce the Court's workload (Report, para 48), we could, to some extent, play a role in informing the public about the right to apply to the Court. We are not in a position to conduct general information campaigns but we could certainly, when asked by a member of the public about the possibilities to apply to the Court, provide him or her with more detailed information than we usually do at the present. If the Commissioner identifies and informs our Office about a specific problem in Sweden within our competence, likely to trigger a large number of applications to the Court, one of the Parliamentary ombudsmen could, on the basis of this information, take up a case on his or her own initiative (ex officio). Such an initiative on our part

	could hopefully help to bring an end to, or at least reduce, the problem. It should be noted, however, that it is not within our mandate to order, or even to propose, a specific solution to an individual grievance.
TYROL + VORALBERG	Basically yes
VOJVODINA	We are interested in closer co-operation with the Commissioner in sharing experience, case analysis, and information.
ZURICH	Wäre eine noch weitergehende Zusammenarbeit denkbar? Grundsätzlich ja, solange die Zusammenarbeit durch den Auftrag der Ombudsstelle (Art. 39 der Gemeindeordnung) gedeckt ist.

#### 5. What is your opinion on this suggestion?

AMSTERDAM	A positive opinion.
ANDORRA	La suggestion du Groupe de Sages semblerait suffisante
BELGIUM	Nous sommes globalement favorables à l'instauration d'une collaboration accrue entre les médiateurs et le Commissaire aux droits de l'homme dans les limites exposées aux points précédents. Cette collaboration peut certainement améliorer l'échange d'informations sur la jurisprudence de la Cour européenne des droits de l'homme susceptible d'être invoquée dans un dossier particulier ou de renforcer une recommandation des médiateurs. A ce titre, elle ne peut que contribuer à rendre les médiateurs nationaux et régionaux plus efficaces dans l'exécution de leur mission, lorsque ils sont saisis de plaintes touchant au respect des droits de l'homme et libertés fondamentales, et donc contribuer à réduire le nombre d'affaires susceptibles d'aboutir devant la Cour.
CROATIA	On principle it is all right, although the details should be visible earlier
CZECH REPUBLIC	Agreement.

DENMARK	Positive, if correctly implemented
ENGLAND + NORTHERN IRELAND + SCOTLAND + UNITED KINGDOM	Closer cooperation between the Commissioner and the national network of Ombudsmen would be welcomed; this would enable us to share experiences and thus improve our own knowledge and practices. Information about the European Court could be added to the information about other complaint handling bodies we already supply to the public. It is noted that 90% of submissions to the court are inadmissible and the provision of information about the Court's criteria would be helpful here.
ESTONIA	Close co-operation helps to disseminate relevant and appropriate information concerning the protection of human rights and therefore it facilitates to make work of the Chancellor of Justice more effective. Still we must keep in mind that ECHR is overloaded and the aim should not be to change this overload to the overload of national ombudsmen. Ombudsman may and must inform people more about ECHR functions. But the main task of ombudsmen should be the protection of human rights at national level and decrease the number of potential ECHR cases by its own good work.
FINLAND	At the moment I am not able to elaborate on the subject
FLEMISH REGION	Indeed, there could be more emphasis on promoting human rights-institutions and the accessibility for the general public. Therefore a well established cooperation (documents and forms, meetings about competences and functions of human rights-agencies and courts, and so on) is vital.
FRANCE	Voir réponse ci-dessus. Une coopération renforcée avec le Commissaire est une bonne chose sur le principe. Elle permettrait, en particulier, de mieux porter à la connaissance des médiateurs et ombudsmans les avancées jurisprudentielles de la Cour Européenne des Droits de l'Homme et de confronter les différentes expériences nationales de prise en compte de ces avancées. C'est dans cet esprit que le Médiateur a créé un réseau d'universitaires chargés de l'alerter

	<p>sur des évolutions de jurisprudence de la Cour de Justice des Communautés Européennes (CJCE) et d'assurer, pour l'institution, une « veille juridique » en matière de droit communautaire. Une « veille » semblable auprès de la CEDH serait du plus grand intérêt.</p> <p>Pour ce qui est du point particulier de la surcharge de travail de la Cour et de l'aide qu'apporteraient nos institutions, il faut avoir à l'esprit que cela aurait inévitablement la conséquence d'alourdir aussi le travail quotidien de nos services au détriment de la mission de diffusion des bonnes pratiques et des droits aux niveaux nationaux. Cette sorte d' « externalisation » de la communication et des études de la CEDH vers les médiateurs risque donc de déplacer le problème et pas forcément de le résoudre.</p>
GREECE	<p>It is expected that it will extend the range and efficiency of both the national ombudsman's and the Commissioner's activity and enhance a common legal and political culture of rights in national administrations. Yet, it may require wider costs on both sides and give rise to concerns about the independence as well as the political neutrality of those involved.</p>
GREENLAND	<p>See above, question 3.</p>
HUNGARY	<p>The appropriate informative function can be attended from an active ombudsman network only if the borderlines of human right (constitutional) and subjective right (civil and administrative jurisdiction) legal protection are clarified in general and on the level of member states as well.</p> <p>The Hungarian Parliamentary Commissioner's Office has already elaborated such a bank (form), which is sent to the complainant for his request or if it is justified after the content of the given submission. Thus the complainant receives detailed information about the Court. In our response sent to the client we also call his attention to his possible chances.</p>

IRELAND	See above.
LATVIA	LNHRO fully supports this suggestion. As The Commissioner for Human Rights has pointed out in his comments on the interim report of the Group of Wise Persons to the Committee of Ministers, such cooperation between National Ombudsman institutions and Commissioner would improve the work of the European Court on Human Rights and overall human rights improvement situation at national level
LITHUANIA	<p>The suggestion is good; however, it can be not easy to find a solution to the problem even with the help of the Commissioner for Human Rights. For example, in the Republic of Lithuania following the Law on restitution many people still (some even for 16 years) cannot get back their real estate nationalised during the soviet years. Trying to restore ownership rights to the property people often have to go through all the litigation process at the court and address the Seimas Ombudsmen. The Seimas Ombudsmen as often as not disclose that the municipal or other institutions delay restoration of ownership rights to the property even after the court passes the decision to restore the ownership rights. The European Court of Human Rights acknowledged that Lithuania had breached the European Convention for the Protection of Human Rights and Fundamental Freedoms because the state institutions failed to implement the courts resolution obliging “to pass a decision following the applicants request to restore ownership rights to her land”. However, there still can be the same or similar complaints because restitution is connected with different problems like shortage of free land, refusal of people to choose alternative methods of compensation, etc. The state knows its obligations and problems concerned with it very well and therefore prepares plans and projects that would help to solve them. However, nobody can make a person wait instead of addressing the European Court for Human Rights.</p>

MALTA	<p>The setting up of a network of Ombudsmen to help reduce the Court's workload with the active support of the Commissioner is a novel idea that requires in depth study. I would favour such a development so long as this takes place within clearly defined parameters that respects the non-judicial nature of the Ombudsman Institution. Understandably at this preliminary stage of debate the suggestion lacks clarity since both the "Group of Wise Persons" as well as the Commissioner are still tentatively exploring different avenues of possible co-operation. A more focused and precise</p> <p>answer to this question will be forthcoming when the finality of the proposed network is established.</p> <p>Obviously the implications to Ombudsman Institutions will depend on the aims it is hoped to achieve, the functions that the network is expected to perform and the level of co-operation envisaged both with the Commissioner and with the European Court. One has to determine I the first place whether the network is intended to be merely an instrument of information, guidance and support to individuals who fell that their fundamental rights are being violated or threatened or whether it is intended to develop as an autonomous extra judicial procedure integrated within the Court structure, which individuals who intend proceeding before that Court are expected to follow. In the latter case one could identify, even at this early stage, a number of principles that have to be followed:</p> <p>the network would operate strictly as an extra judicial organization with no judicial function. This means that it should not be expected to be involved directly or indirectly in the determination of rights and obligation whether on issues of substance or procedure;</p> <p>the envisaged reduction of the Court's workload would therefore only result from the network's potential to 1) act as an effective instrument of alternative dispute resolution; and/or 2) providing</p>
-------	--



	<p>support services to the Court to offer competent advice to litigants before that Court either at the preliminary stage regarding the admissibility of the claim or at later stage regarding its outcome prospects; 3) the parties to a suit may be required to utilize the services of the network <u>before</u> filing written pleadings before the Court. However the Ombudsman's involvement must in no way prejudice the rights of the litigants to proceed with their case, nor should it influence in any way those proceedings or the Court's judgment.</p> <p>If developed on these lines the effectiveness of the network would undoubtedly be enhanced because the parties to a suit would have the advantage and would be faced with a preliminary, competent and correct evaluation of the facts of their cases, the legal issues involved and their application to those facts. They would be given a clear picture on the degree of success, both regarding the admissibility of their claim, the effectiveness of their pleas as well as their chances of success on the merits. They would also be given an indication of the costs involved, the expected time frame till judgment as well as the level of compensation the Court would normally liquidate. Access to a network functioning on these lines could either be voluntary or, preferably, mandatory. If the network functions well and competently proceedings were bound to influence litigants in their decision to proceed before the Court. This would surely positively affect its workload. It is not unreasonable to expect that, at some stage these proceedings would develop into a positive mediation exercise leading to a friendly out of Court settlement. This scenario would in my view fit in correctly with the nature of the Ombudsman's Office that is not as a rule expected to give binding decisions. Moreover proceedings before the Ombudsman acting as an amicus curiae are carried out exclusively outside the ambit of the court process and would not therefore influence its decision at any</p>
--	---

	stage.
NETHERLANDS	<p>A closer cooperation with the Commissioner is possible. For instance it seems possible to function as an advisory body to the citizens when they are considering bringing a case before the Court. Also the special mandate of the National Ombudsman could be employed in solving problems in a friendly way. Furthermore, the network of the National Ombudsman could be used as a possible early warning system. It must be noted that such a system can only work well if and when there is a close and continues working relationship between the National Ombudsmen and the Court</p>
SLOVAKIA	<p>The Act on Public Defender of Rights also remembers the possibility of co-operation between the Public Defender of Rights and other organisations. The provisions of § 25 imply that the public defender of rights might also co-operate with other subjects working in the field of protection of rights and freedoms. Among the conditions for filing a complaint to the European Court for Human Rights we find the duty to exhaust all the legal remedies in the respective country that might remedy the situation against which the complaint is directed. Usually it means to file a complaint to the competent court, then the application of ordinary and extraordinary legal remedies, including its submission to the constitutional court. The Public Defender of Rights in the Slovak Republic is not classified in the system of protection, which would precede filing the complaint to court. According to law the Public Defender of Rights is not entitled to perform negotiating proceedings or to check efficiency of the implementation of court resolutions</p> <p>Despite the fact that the legal enactment, which would accept all the proposals in the given areas is absent in the Slovak Republic, the Office of the Public Defender of Rights participates on informing the public in this field on the competencies and force of the European Court for Human Rights and the principles included in the</p>

	Agreement on Human Rights and Fundamental Freedoms and supports further intensification of co-operation with the commissar in this field.
SPAIN	In relation to the creation of a new network of national ombudsmen, in the framework of the Council of Europe, the Defensor del Pueblo considers appropriate to tackle such possibility in further meetings and with a wide consensus.
SWEDEN	We are in favour of the above-mentioned suggestion. It is certainly of crucial importance to safeguard the effectiveness of the ECHR control mechanism and, especially, the right of individual application to the Court. This right is, as the Group of Wise Persons has pointed out, both an essential part of the system and a basic feature of European legal culture (Report, para 17). It could, and should, serve as a model for Human Rights control mechanisms world wide.
TYROL	I regard it as positive since Human Rights questions have to be considered in administrative actions and its control
VOJVODINA	The Office of Provincial Ombudsman supports suggestions mentioned in the paragraph 48 of Report and would like to mention that the Office is already informing the public about the right to apply to the Court, distributing application forms, and informing the public about the Court's mandate and competence and about admissibility criteria contained in the Convention.
VORALBERG	I regard it as positive since Human Rights questions have to be considered in administrative actions and its control, but there doesn't seem much awareness of this fact
ZURICH	Informationen über den Europ. Gerichtshof und die Zulassungskriterien Derartige Informationen werden durch die Ombudsstelle in geeigneten Einzelfällen abgegeben. Die generelle Information der Bevölkerung obläge indessen eher den nationalen Institutionen (z. B. einer künftigen eidgenössischen Kommission für Menschenrechte). Die Ombudsstelle wünschte sich ein Forum für

	einen regelmässigen fachlichen Erfahrungsaustausch mit dem Kommissar. Seinerseits erhalte der Kommissar die Gelegenheit, die Menschenrechtspraxis aus der Sicht der unabhängigen Ombudsstellen zu erfahren.
--	---

**6. Do you think that the suggested co-operation represents an interference with the independence of your institution?**

ALBANIA	The Office of People's Advocate has the opinion that the suggested co-operation doesn't represent an interference with the independence of our institution
AMSTERDAM	No
ANDORRA	Non
AUSTRIA	No. The suggestions do not interfere with the constitutional independence of the Ombudsman Board
BELGIUM	<p>Dans les limites exposées ci-dessus, la coopération suggérée pour renforcer l'information sur les droits de l'homme et les libertés fondamentales ne paraît pas de nature à porter atteinte à l'indépendance de notre institution.</p> <p>Le rôle plus préventif et curatif envisagé aux paragraphes 48, 1° et 49 ne pourrait en l'état actuel de notre législation être assumé par le Médiateur fédéral que dans la mesure où d'une part, une autorité administrative fédérale est impliquée et où, d'autre part, soit une réclamation est introduite (par la victime des violations alléguées ou le Commissaire si son mandat le lui permet), soit une demande d'investigation est adressée au Médiateur fédéral par la Chambre des représentants.</p> <p>Dans le cas d'une réclamation, l'indépendance de l'institution est suffisamment garantie par le fait que la décision finale d'intervention ou non relève du pouvoir d'appréciation exclusif des médiateurs fédéraux.</p>
CROATIA	No, it does not

CZECH REPUBLIC	No, it does not
DENMARK	No, not necessarily
ENGLAND + NORTHERN IRELAND + SCOTLAND + UNITED KINGDOM	No.
ESTONIA	No. Extension of the duties of the Commissioner for Human Rights in the sense of the Report helps to achieve closer and more flexible co-operation and therefore facilitates to protect human rights more effectively.
FINLAND	I do not foresee problems of this kind.
FLEMISH REGION	No
FRANCE	<p>La question de l'indépendance est essentielle pour tous les médiateurs et ombudsmans. Notre loi fondatrice précise par exemple, dès son article 1, que le Médiateur de la République ne peut recevoir d'instruction d'aucune autre autorité.</p> <p>Dans la mesure où la coopération se traduit par un échange d'informations et d'expériences, et sur un plan d'égalité (cf. question 3), elle ne créera pas d'interférence avec le principe d'indépendance.</p>
GREECE	Not necessarily, but it might: a) if participants in the cooperation network do not stand on a par relation and disagreement among them is to be resolved through hierarchical structures and/or b) if a considerable margin of discretion is not allowed to the judgment of national ombudsmen as far as the relevance of local circumstances of effective ECHR application at national level.
GREENLAND	Not necessarily. See above, question 3.

HUNGARY	The co-operation (co-operative constitutionality and constitutional co-operation) do not represent any interference.
IRELAND	No
LATVIA	No, on opposite. One of the main tasks is to improve observation of human rights at national level and this function cannot be fulfilled without cooperation with international human rights protection institutions.
LITHUANIA	If the suggested co-operation has no imperative nature and is not based on the principle of direct subordination, but simply involves exchange of information and proposals it can be useful.
LUXEMBOURG	No
MALTA	No, if the suggested co-operation develops along the lines outlined in my reply
NETHERLANDS	No, there does not seem to be an interference, as long as the National Ombudsman is free in filling in the way information is shared or in the way it deals with problems in a friendly way
NORWAY	As mentioned above, the law and directive of the Parliamentary Ombudsman does not enable the Parliamentary Ombudsman to delegate his authority to other bodies, national or international. As long as the co-operation is limited to sharing information and to heighten the knowledge in the public, it will not represent an interference with the Parliamentary Ombudsman's independence
ROMANIA	In our opinion, the answer at the above mentioned questions would involve a careful and detailed analysis of all possible juridical involvements and consequences deriving from a future cooperation between the Commissioner for Human rights and Ombudsman Institutions, in order to give more efficiency to the control system for the application of the European Convention for defending human rights and fundamental freedoms. In this purpose, organising scientifically debates would be of great benefit for all parties. The key issue of these debates could be an analysis of all problems from

	the perspective of the necessity to observe the independence and autonomy of the Ombudsman as well as the other specific aspects that characterise the Ombudsman Institution in different national systems. In Romania, the People's Advocate is an autonomous public authority, independent of any public authority, under the terms of the law; in the exercise of his powers, the Advocate of the People shall be no substitute for any other public authorities; the Advocate of the People cannot be subjected to any imperative or representative mandate. No one can compel the Advocate of the People to obey any instructions or orders
SPAIN	No, as the Defensor del Pueblo would be anyway the only institution which could oversee directly, in non-judicial aspects, the respect of the fundamental rights and freedoms by the Spanish Administration
SWEDEN	The proposed CO-operation would not interfere with our independence. In this regard, it is essential to underline that it is for each of the Parliamentary ombudsmen to decide whether to act on the information provided by the Commissioner or not.
TYROL	No!
VOJVODINA	Suggested co-operation does not represent interference with the independence of our institution
VORALBERG	Not at all!
ZURICH	Durch die beschriebene informelle Zusammenarbeit zwischen dem Kommissar und der Ombudsstelle wird deren Verwaltungsunabhängigkeit nicht beeinträchtigt. Die Unterstützung durch den Kommissar könnte einer Ombudsstelle noch mehr Gewicht verleihen

**Insofar as your institution does not have any competence regarding the protection of Human rights:**

**7. If your Office does not have an explicit “Human rights mandate”, do you still find it possible and useful to be a member in the network for example for informative and educative purposes?**

ALBANIA	The Office of People’s Advocate has a “Human Rights Mandate” and find it possible and useful to be a member in the network
ANDORRA	Notre institution n'a pas de « mandat explicite » relatif aux Droits de l'Homme. Toutefois nous pensons qu'il serait important et utile pour nous d'être membres du réseau dans le but suggéré plus haut
BELGIUM	Pour rappel, le Médiateur fédéral n’a pas de mandat explicite en matière de droits de l’Homme. Toutefois, sa mission générale d’examen de réclamations portant sur les actes et le fonctionnement des autorités administratives au niveau fédéral inclut le contrôle du respect des droits fondamentaux.  L’absence de mandat explicite n’empêche pas, comme exposé ci-dessus, que le Médiateur fédéral puisse intervenir dans le domaine des violations ou abus des droits de l’Homme et des libertés fondamentales.
CROATIA	The Office of the Ombudsman does not have an explicit, entirely clear mandate in the domain of human rights, but it is not supposed to be an obstacle for suggested cooperation
CZECH REPUBLIC	Yes
DENMARK	(As stated above the ombudsman Office has a general mandate to process complaints over any unlawfulness on the part of the authorities. This includes complaints based on breaches of the rights set forth in the European Convention on Human Rights. The Ombudsman, however, has no explicit human rights mandate)  YES
ENGLAND + NORTHERN IRELAND + SCOTLAND +	Yes. As above – the lack of an explicit Human Rights mandate does not prevent the Ombudsmen from adopting a Human Rights approach and integrating this into the investigation of complaints.



UNITED KINGDOM	
ESTONIA	Yes, because effective information dissemination gives the ombudsperson more possibilities for intervention in cases when seems to occur rough and crucial violation of somebody's rights.
FLEMISH REGION	Yes, certainly. It would rather be as a "Passive member".
FRANCE	L'appartenance à ce réseau est tout à fait possible, compte tenu des quelques réserves énoncées plus haut. Elle serait bien sûr éminemment utile.
GREENLAND	Yes
IRELAND	Despite not having a specific competence in relation to the protection of human rights, the Irish Ombudsman's Office has always taken an expansive view of its remit. Thus, when investigating complaints of maladministration - a term which is not defined in the Irish Ombudsman Act - the Ombudsman is not precluded from encompassing human rights infringements within that term. The Network would assist the Office in further developing its understanding of the relevance of human rights to the Ombudsman's role.
MALTA	Yes, undoubtedly cooperation at this level is not only desirable but essential if my Office is to play an effective role in this field
NETHERLANDS	Such membership is invaluable. Although not mentioned in the Dutch National Ombudsman law, such subjects of course form part and parcel of the mandate of an ombudsman. Good governance cannot exist without adherence of the state to fundamental rights
TYROL	I find it useful to participate in the network
VORARBERG	As pointed out, there is no explicit Human Rights mandate, but (since the Convention is part of the Austrian Constitutional Law) competence regarding the protection of Human Rights. I find it

	useful to participate in the network
WALLON REGION	Evidemment, il est toujours utile de faire partie de réseaux défendant les droits de l’homme à des fins d’information, voire à des fins éducatives.

**8. The Group of Wise Persons suggests that the Committee of Ministers should give a recommendation to expand the competence of Ombudsman institutions for those Offices where it is missing (Report, para 46). Do you think that this suggestion is useful?**

ALBANIA	The Office of People’s Advocate has the opinion that the Group of Wise Persons should give recommendation to expand the competence of Ombudsman institutions for those offices where it is missing and find this suggestion useful
ANDORRA	Une recommandation dans ce sens serait très importante. Si elle était acceptée, tous les médiateurs internationaux et nationaux pourraient agir sur les sujets qui font référence aux Droits de l’Homme
AUSTRIA	Although the Ombudsman Board has a indirect mandate (see above) regarding the protection of Human Rights, an additional explicit mandate might be useful
BELGIUM	Certainement. A notre avis, une telle recommandation devrait avoir pour objectif que le mandat de tout médiateur national ou régional inclue au minimum la mission explicite et générale de protection des droits de l’Homme à l’égard des violations ou abus commis par l’autorité contrôlée par le médiateur (en ce compris le droit d’enquêter d’initiative) et à accorder au médiateur national et régional la qualité de membre de droit dans l’institution nationale de protection des droits de l’homme
CROATIA	Yes, I think that it would be useful
CZECH REPUBLIC	No, there might be different (and effective) mechanism on the national level guaranteeing supervision over the correct application of the rules and principles of human rights
DENMARK	The Danish ombudsman is competent in cases regarding human

	rights and no additional mandate is required
ENGLAND + NORTHERN IRELAND + UK	This will be a matter for the new Commission to consider (see above). New legislation is not essential for the operation of existing Ombudsmen schemes, although the granting of a specific Human Rights mandate would raise the profile of Human Rights issues and emphasise the Ombudsmen's role in this field.
ESTONIA	This kind of suggestions formulation should be quite discretionary.
FLEMISH REG.	Not for the Flemish Ombudsman Service, yes for the ombudsmen who lack human rights-authority.
FRANCE	<p>Cette suggestion est très utile. Elle va dans le sens d'une évolution qui conduit de toute façon les médiateurs d'un rôle de « facilitateur » administratif vers celui de garants – à côté des Cours constitutionnelles et des autres juridictions – des libertés publiques et des droits de l'Homme.</p> <p>Le gouvernement français a par exemple, pris lui-même en compte cette évolution en décidant récemment de confier une nouvelle mission en rapport avec les droits de l'Homme au Médiateur de la République : celle d'évaluer et de contrôler les lieux privatifs de liberté (prisons, centres de rétention administrative, établissements psychiatriques, etc.). Cette décision, conséquence de la ratification prochaine par la France du Protocole facultatif à la Convention des Nations Unies pour la prévention de la torture, est aussi le signe que les pouvoirs politiques prennent conscience du rôle important que peut jouer l'institution de l'ombudsman dans un État de droit.</p>
GREENLAND	As stated above in question 2 the Ombudsman has a general mandate to investigate the administrative bodies, which includes human rights issues. No expansion seems required.
IRELAND	The suggestion requires further consideration for a number of reasons. First, as already explained, the Irish Ombudsman's Office is not specifically precluded from encompassing human rights considerations within its investigation of complaints. Second, those

	<p>countries where Ombudsman do not have specific competence in human rights often have a specific human rights institution. The latter, quite reasonably, are unlikely to look favourably on the suggested recommendation of the Committee of Ministers. Third, national parliaments and governments in the afore-mentioned countries may well look unfavourably on the suggested recommendation in that it appears to promote unnecessary and wasteful duplication of supervision and control mechanisms in the field of human rights. An alternative approach might be first to establish the network and revisit the issue of a recommendation at a later date in the light of accumulated experience.</p>
LUXEMBOURG	Yes
MALTA	<p>Yes. In my opinion, if the suggestion that co-operation between the Ombudsman and the Commissioner is to be institutionalized, such a development requires harmonization of the Ombudsman Institution in all EU member States. Co-operation with the Commissioner should be extended to, engaged in and enjoyed by all Ombudsman Institutions in Member States at the same level. This is especially so if such co-operation involves the creation of a network to help in the work of the ECHR. In such a case it has to respect the basic principle that all persons are equal before the law and that all should have the same opportunity to equal access to the Courts. This principle is recognized as a fundamental right in the EU Charter. This means that all individuals within the Member States should expect and have the same support service that the Ombudsman should provide to the Court in an effort to reduce its backlog. This also means that before such a system is adopted and put in place it has to be ensured that all Ombudsman Institutions in EU Member States are governed essentially by the same rules that ensure their autonomy, impartiality and independence and that they enjoy the required jurisdictional capacity that empowers them to take cognizance of human rights</p>

	issues in the exercise of well defined functions. This applies especially if the network is given functions that go beyond the provision of purely informative and educational services.
NETHERLANDS	This might be necessary but, as mentioned under 7, in my opinion the promotion and protection of human rights is an inherent part of the mandate of an ombudsman. However, it might confirm the existing competence.
SCOTLAND	This will be a matter for the new Commission and respective legislatures to consider (see above). New legislation is not essential for the operation of existing Ombudsmen schemes, although the granting of a specific Human Rights mandate would raise the profile of Human Rights issues and emphasise the Ombudsmen's role in this field
TYROL + VORARLBERG	Very useful!
WALLON REGION	Il faut veiller au respect de la souveraineté parlementaire en « Région wallonne ».  La Belgique est un Etat fédéral et la violation des droits de l'homme et la défense des libertés fondamentales relèvent du pouvoir fédéral, et non du pouvoir des entités fédérées ou de l'entité fédérée qu'est la Wallonie

**9. Does your country already have an institution which is competent to supervise the correct application of the European Human Rights Convention and for the suggested co-operation? If yes, which one?**

ALBANIA	The Office of People's Advocate is the only institution which is competent to supervise correct application of the European Human Rights Convention and for the suggested co-operation
ANDORRA	Dans notre pays n'existe aucune institution spécifique qui aie la compétence dans le contrôle de l'application de la Convention de

	sauvegarde des Droits de l'Homme
AUSTRIA	No; only the ombudsmen on national and regional level
BELGIUM	<p>Pas en tant que telle. Le Centre pour l'Egalité des Chances et pour la Lutte contre le Racisme bénéficie du statut d'observateur (« statut B ») auprès du Comité international de coordination des institutions nationales de droits de l'Homme (CIC).</p> <p>Notons que la création d'une telle institution figure explicitement dans l'accord de gouvernement de la présente législature : « A l'instar de plusieurs de nos voisins, et comme le recommandent le Conseil de l'Europe et les Nations Unies, le Gouvernement mettra en place une Commission des Droits de l'Homme, qu'il consultera régulièrement. ».</p>
CROATIA	No, it does not, except courts /and Constitutional Court
CZECH REPUBLIC	The Governmental Council for Human Rights – it has only consultative function but can bring proposals to the government concerning human rights
DENMARK	The Danish Institute for Human Rights (DIHR) is an independent institution which monitors and documents the human rights situation in Denmark. The DIHR also handles complaints over human rights violations in certain areas. More information about the DIHR can be found at their webpage: <a href="http://www.humanrights.dk">www.humanrights.dk</a>
ENGLAND + NORTHERN IRELAND + SCOTLAND + UNITED KINGDOM	The application of the ECHR is currently a matter for the courts. Judges are independent and, apart from the possibility of appeal, their findings are not supervised by any institution in the UK. The new Commission may take on this role.
ESTONIA	The Office of the Chancellor of Justice on the field of supervision over the principles of observance of the fundamental rights and freedoms and principles of sound administration.
FLEMISH	Centre for Equal Opportunities and against racism. The National

REGION	ombudsman service can investigate complaints about violations committed by Belgian federal authorities. The Flemish Ombudsman Service has established cooperation with these institutions.
FRANCE	<p>Non, il n'y a pas d'institution spécifiquement chargée d'une telle mission.</p> <p>Le respect des droits de l'Homme s'impose à toute administration ou autorité française puisque c'est une norme à la fois constitutionnelle (Déclaration des droits de l'Homme et du citoyen) et supra légale (la Convention européenne). Le médiateur a donc un devoir de vigilance à cet égard.</p> <p>Les différentes juridictions, judiciaire, administrative ou constitutionnelle, sont chargées de faire respecter cette norme et les arrêts de la Cour européenne entraînent un ajustement de la jurisprudence nationale.</p>
GREENLAND	The Danish realm has The Danish Institute for Human Rights, which is an independent institution that monitors and documents the human rights situation in the realm, Europe and internationally. The Institute also handles complaints in certain areas e.g. in The Complaints Committee for Ethnic Equal Treatment.
IRELAND	Supervision of the correct application of the Convention is a matter for the courts. Under the Irish Constitution, judges are independent and their decisions are not subject to further appeal by any other Irish institution. In addition, the Irish Human Rights Commission has the power to assist persons with the enforcement of human rights and to initiate court proceedings on behalf of a person or class of persons. The Commission also has a role in promoting awareness of human rights in Ireland.
MALTA	No. Supervision of the application of the European Human Rights Convention is entrusted by law to the Law Courts as stated above. The right of individual petition referred to in my answer to the

	second question above, provides in my opinion adequate judicial means of redress for monitoring alleged violation of the Convention. There is however scope for extra judicial monitoring of the correct application of the Convention on the suggested lines especially in administrative procedures at primary, grassroots level.
NETHERLANDS	No. Although a National Human Rights Institution is being set up at this moment. The Dutch National Ombudsman actively participates in this process.
ROMANIA	At present, in Romania there is not organised and does not function an public authority having exclusive powers to supervise the correct application of the European Human rights Convention
SCOTLAND	The application of the ECHR is currently a matter for the courts. Judges are independent and, apart from the possibility of appeal, their findings are not supervised by any institution in the UK. The new Commission may take on this role
TYROL + VORARLBERG	The Volksanwaltschaft as well as the Landesvolksanwalt of the Tyrol and of Vorarlberg, several NGOs
WALLON REGION	Ce sont les juridictions, c'est-à-dire les juges nationaux qui veillent à la bonne application de la Convention européenne des droits de l'Homme
ZURICH	In der Schweiz bereits existierende Einrichtungen zum Schutze der Menschenrechte und für die vorgeschlagene Zusammenarbeit: Gerichte, Kommissionen (z. B. Eidg. Kommission gegen Rassismus), parlamentarische Ombudsstellen Das Bundesgericht beurteilt auf staatsrechtliche Beschwerde hin die Verfassungsmässigkeit von kantonalen Erlassen und Verfügungen. Bundesgesetze kann es vorfrageweise auf ihre Vereinbarkeit mit Bundesverfassung und EMRK hin überprüfen. Die Rechtsprechung des Bundesgerichts ist für die Menschenrechtspraxis von besonderer Bedeutung. Da jede rechtsanwendende Behörde verpflichtet ist, das anzuwendende Recht auf seine Übereinstimmung mit



	<p>übergeordnetem Recht und mit der Verfassung (und damit auch hinsichtlich der Menschenrechte) hin zu prüfen, nehmen auch kantonale Gerichte und andere Bundesinstanzen an der Verfassungskontrolle von Erlassen teil. Mangels einer nationalen parlamentarischen Ombudsstelle in der Schweiz könnte die Zusammenarbeit über entsprechende Institutionen des Bundes (z. B. über eine künftige eidgenössische Kommission für Menschenrechte bzw. ein Schweizerisches Institut für Menschenrechte) oder über die Schweizerische Vereinigung parlamentarischer Ombudsleute (SVPO) erfolgen</p>
--	--

**In his comments on the interim report of the Group of Wise Persons, the Commissioner for Human Rights clearly defines areas of possible co-operation with the ombudspersons (Comments, para 4, p 2):**

**10. Are you entitled to forward information to the Court through the Commissioner, as suggested, or would this require an expansion of your mandate?**

ALBANIA	According to the Albanian Constitution and other laws defining the rights and duties of People's Advocate, the institution (People's Advocate) is not entitled to forward information to the Court through the Commissioner. This suggestion requires an expansion of People's Advocate mandate concerning this issue
AMSTERDAM	Yes, I am entitled to do that
ANDORRA	Non, il faudrait élargir mon mandat
AUSTRIA	The Austrian Ombudsman Board is entitled to forward information in general. Nevertheless it would need further consideration, whether the provision in Art. 148 b para.2 of the constitution that stipulates that the "Ombudsman Board must observe official secrecy to the same degree as the authority whom it has approached in fulfilment of its task", might be an obstacle, if information on individual cases, already investigated by the Ombudsman Board or pending, is required
BELGIUM	<p>A notre avis, cela exigerait une extension du mandat du Médiateur fédéral. En l'état actuel de la législation belge, le Médiateur fédéral rapporte exclusivement au Parlement, seul habilité à rendre ses rapports publics. Le Médiateur fédéral ne pourrait donc communiquer au Commissaire aux droits de l'Homme et, à travers lui, à la Cour uniquement les constatations contenues dans ses rapports déjà rendus publics par le Parlement.</p> <p>Ceci à l'exception des conclusions formulées à l'issue du traitement d'une réclamation dont il aurait été saisi par le Commissaire ou, éventuellement par son intermédiaire, par les personnes faisant état d'une violation de la Convention. Dans ce cas, tant le réclamant que</p>

	<p>l'autorité concernée sont informés des conclusions du Médiateur fédéral et en disposent librement.</p> <p>Attirons également l'attention sur le fait que les médiateurs sont soumis au secret professionnel, lequel peut être levé en cas de témoignage en justice ou devant une commission d'enquête parlementaire.</p>
CATALONIA	Yes, the Catalan Ombudsman is entitled to do so. Thus, as suggested by the Commissioner, we could inform the Court, through him, of whether or not an individual case reflects a widespread situation within the territory monitored by the Ombudsman
CROATIA	The regulations of the Republic of Croatia do not impose a ban on that, although the extension of the mandate would be advantageous.
CZECH REPUBLIC	It would require expansion of the mandate
DENMARK	The Danish ombudsman may forward information about any case which is within his Jurisdiction. Cases or matters which have been treated by the Danish courts or by the Danish parliament are not within his jurisdiction. The ombudsman therefore cannot express his views on such cases or matters.
ENGLAND + NORTHERN IRELAND + UK	The main limitation on our ability to forward information to the court is the legal prohibition on the disclosure of information obtained during or for the purposes of an investigation. There is an implied power to share general information but to share more specific case-related information would require expansion of our mandate
ESTONIA	There are no restrictions in legal acts for the Chancellor of Justice to do so. But we must consider that our resources are not unlimited.
FINLAND	Yes (see, however, my remarks concerning the Act on Openness of Government Activities above)
FLEMISH REGION	Our Service has no right to investigate on our own initiative, but we could forward information based on the investigations of complaints

FRANCE	<p>L'article 11 de notre loi de création n'autorise pas une telle transmission. En effet, il dispose notamment que « le Médiateur de la République ne peut intervenir dans une procédure engagée devant une juridiction... ».</p> <p>Une extension des compétences du Médiateur serait indispensable.</p>
GREECE	<p>According to the Greek ombudsman's instituting legal instrument such co-operation wouldn't require an expansion of the mandate, in so far as this information would be shared in a non-binding manner. For the purposes of providing legally binding material a formal agreement through the Ministry of Foreign affairs should rather be effected.</p>
GREENLAND	<p>The Ombudsman is entitled to forward information on any case within her jurisdiction, which includes the entire administrative system but excludes the judicial and political system.</p>
HUNGARY	<p>No. It would require an expansion of the mandate.</p>
IRELAND	<p>As already explained, the Ombudsman would have no difficulty in sharing general information about casework, including trends arising from individual cases, significant systemic issues and details of individual published cases from, for example, her Annual Reports. However, the Office is precluded from disclosing information obtained in the course of an investigation except in the context of publishing the outcome of the investigation to the complainant or to a wider audience. In practice, this prohibition is not likely to be an obstacle to co-operation with the Commissioner.</p>
LATVIA	<p>There are no express restrictions provided in the Law on correspondence with the Commissioner or the Court. LNHRO holds a view that it wouldn't require an expansion of mandate of institution.</p>
LITHUANIA	<p>It would require expansion of the Seimas Ombudsman's mandate.</p>
LUXEMBOURG	<p>No expansion required</p>
MALTA	<p>No. It would require an expansion of my mandate</p>

NETHERLANDS	Information could be provided as long as directive 95/46/EC <sup>5</sup> is adhered to
NORWAY	Except from the limitations implied by the pledge of secrecy, the Ombudsman has the liberty to share information about all the cases processed by him. A formal duty to send permanent reports to other bodies than the Parliament would probably necessitate changes in the Ombudsman's mandate
ROMANIA	The law on organising and functioning of the People's Advocate does not comprise provisions regarding the right of the People's Advocate to forward information to the Court through the Commissioner, of (e.g.) whether or not an individual case reflects a widespread situation in Romania
SCOTLAND	The main limitation on our ability to forward information to the court is the legal prohibition on the disclosure of information obtained during or for the purposes of an investigation. There is an implied power to share general information but to share more specific case-related information would require expansion of our mandate. Although SPSO reports of completed investigations are public documents, the Ombudsman cannot be called to give evidence if the complainant subsequently takes their case to the courts
SPAIN	Some limits could be observed with relation to the guarantees of confidential information submitted by citizens to the Defensor, and to the independence of judging function
SWEDEN	If asked by the Commissioner whether or not an individual case brought before the Court reflects a widespread situation in our country, we would probably in many cases hesitate to express an opinion. We should, however, be able to at least provide him with information from our own "case-law" regarding related issues, i.e. to

---

<sup>5</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data Official Journal L 281 , 23/11/1995 P. 0031 - 0050

	describe what we have found during inspections or when dealing with complaints.
TYROL + VORALBERG	Not mentioned in my mandate, but I see no obstacles to do so without explicit mandate
VOJVODINA	Informing the Court, through the Commissioner, of whether or not an individual case reflects a widespread situation in one or several member states, is not within the jurisdiction of Provincial Ombudsman and would require an expansion of the mandate of the Office
WALLON REGION	<p>en droit administratif belge, il y a ce que l'on appelle le principe de spécialité. Le décret qui a créé l'Institution de Médiateur de la Région wallonne a imposé à cette Institution un rôle de médiation et n'a pas prévu des procédures de collaboration, d'envois d'informations et de coopérations avec le Commissaire aux droits de l'Homme. Certes une autorité publique (telle que l'Institution de Médiateur de la Région wallonne) peut faire tout ce que peut faire une personne privée (comme conclure des contrats, des accords, etc). Cependant, le principe de spécialité signifie que n'importe quelle autorité publique ne peut pas, sans y être autorisée expressément par un texte, aller conclure des conventions et « discuter » avec des autorités internationales. Cependant, le Médiateur de la Région wallonne pourrait recommander qu'une procédure soit mise en place à cet effet.</p> <p>Il est à souligner que l'article 11 du Règlement d'ordre intérieur de l'Institution du Médiateur de la Région wallonne énonce d'ailleurs : « dans la mesure où cela peut contribuer à renforcer l'efficacité de ses enquêtes et à mieux sauvegarder les intérêts et droits des personnes physiques ou morales dont la réclamation est fondée, le Médiateur peut coopérer avec d'autres Médiateurs ».</p>
ZURICH	Befugnis der Ombudsstelle, Informationen durch den Kommissar an

	den Gerichtshof weiterzuleiten: Die Ombudsstelle ist zwar grundsätzlich frei, welche Stellen sie über ihre in den einzelnen Fällen gemachten Feststellungen in Kenntnis setzen will. Eine Berichterstattung an den Gerichtshof ist jedoch nicht vorgesehen
--	--

**11. Are you entitled to provide significant assistance in reaching “friendly settlements”, as suggested, or would this require an expansion of your mandate?**

ALBANIA	The Office of People’s Advocate is not entitled to provide significant assistance in reaching “friendly settlements” as suggested, and this issue require an expansion of People’s Advocate mandate
AMSTERDAM	Yes, I am entitled to do that
ANDORRA	Selon la Loi de création et de fonctionnement du médiateur, nous ne pouvons pas agir dans la réalisation d « arrangements amiables », il faudrait élargir mon mandat
AUSTRIA	Yes, as far as it does not regard activities of the national courts. It must be stated that so far the Court has never invited the Ombudsman Board to act as “amicus curiae” (Art. 36 ECHR)
BELGIUM	Concilier les points de vue en présence constitue une des facettes essentielles de la mission du Médiateur fédéral, dans le cadre de sa mission légale. Ceci toujours exclusivement dans le cadre de réclamations introduites par une personne intéressé concernant une autorité administrative fédérale.
CATALONIA	Yes, as stated in Q. 3, the Catalan Ombudsman tries to seek non-judicial remedies for the complaints.
CROATIA	Probably yes, unless it does not include formal powers
CZECH REPUBLIC	It would rather require expansion of the mandate, or at least specialised personal consolidation of the Office
DENMARK	The Danish ombudsman may state his views on any case brought before him and he may make recommendations to the authorities. The ombudsman can only base his statements on his interpretation of the law and his interpretation of good administrative practice.

	<p>Therefore, the ombudsman cannot negotiate settlements as such between the authorities and the citizens, but only inform the authorities what he believes to be the correct decision</p>
ENGLAND + NORTHERN IRELAND	<p>It is not clear how the Commissioner envisages that Ombudsmen would provide such assistance. The Ombudsmen have considerable discretion as to how they conduct an investigation or deal with complaints. When they uphold a complaint, the Ombudsmen's staff can discuss with the bodies complained about mutually acceptable proposals for redress, and may facilitate mediation between the parties. However, the Ombudsmen have no power or duty to intervene in court proceedings or act on an "own initiative" matter so at the present time could not provide significant assistance in reaching friendly settlements, nor report back to the Court as to whether or not practices or situations declared in breach of the Convention by the Court persist or have actually been stopped. To do this would require an extension of the mandate.</p> <p>There may be a limited ability to assist the Commissioner for Human Rights in informing the Court whether or not an individual case reflected a widespread situation in one or several member States. However, we consider that Lord Woolf's proposal for a friendly settlement unit in the Registry set out in his report "Review of the Working Methods of the European Court of Human Rights" merits further consideration. Under that proposal, one of the functions of that unit would be to maintain a list of accredited mediators in member states, who specialise in human rights issues. Additionally, his report identified staff in local offices of the Registry as a useful resource to assist in increasing the number of friendly settlements</p>
ESTONIA	<p>The Chancellor of Justice can assist in reaching "friendly settlements", but only before litigation in national courts.</p> <p>The Constitution and the Courts Act enacts that national courts should be independent in their activities and should administer</p>



	<p>justice in accordance with the Constitution and the laws. Justice must be administered solely by the courts. No one should have the right to interfere with the administration of justice.</p> <p>The Chancellor of Justice Act prohibits the Chancellor to process an application if court proceedings are pending and no court judgment shall have entered into force in the matter of the petition.</p> <p>Ombudsman cannot act against national supreme court judgment and start “bargaining” over the nature of that judgment. By friendly settlement, the state admits that there has been a violation of human rights and that national court has not established or even more, there has been the violation in national court proceedings. I do not see ombudsman taking such position and fulfilling this task.</p>
FINLAND	<p>There is no express statutory basis in the Act on Parliamentary Ombudsman, nor established practices for assisting in reaching friendly settlements in the work of the Finnish Ombudsman. Thus, it cannot be presently said with certainty whether the mandate of the Ombudsman would have to be expanded in order to engage in such forms of activity. The issue would require closer examination.</p>
FLEMISH REGION	<p>An expansion is required if there’s no concrete complaint about the Flemish authorities</p>
FRANCE	<p>Dans l’état actuel, non. L’article 11 précédemment cité interdirait cette tentative dès lors qu’elle interférerait avec une procédure en cours auprès de la Cour européenne.</p> <p>Pourtant, parvenir à un accord à l’amiable en évitant une résolution contentieuse d’un conflit est au « cœur du métier » du Médiateur de la République. Une « Chambre de médiation », placée auprès de la CEDH, et à laquelle pourraient participer les médiateurs et ombudsmans, permettrait de promouvoir ce mode alternatif de résolution des conflits.</p>
GREECE	<p>According to its instituting legal instrument the Greek Ombudsman can take all appropriate action to settle right the problems brought to</p>

	his attention. In the broad sense of mediating, the Greek Ombudsman does reach “friendly settlements” in many disputes. Such settlements are not, legally speaking, strictly binding nor are they provided for, as such, in our instituting legal instrument.
GREENLAND	The Ombudsman is not entitled to negotiate between the authorities and the complaining citizen, but may only express her view and make recommendations as to what she believes to be the correct interpretation of the law and good administrative practice.
HUNGARY	These kinds of endeavours have already existed in our practice. The Hungarian ombudsman usually plays the role of mediator.
IRELAND	It is not clear how this might work in practice. The Ombudsman is generally precluded from investigating complaints which have been the subject of court proceedings although she can exercise a discretion in certain limited circumstances to get involved. Specifically, it is not clear how such cases would be remitted to the Ombudsman. As already explained, the Irish Ombudsman's Office is complaint driven and although the Office has the power of own initiative, this is used sparingly. The Ombudsman may well encounter difficulties with public authorities were she to receive a request from a third party (for example, the Commissioner) to assist in achieving a friendly settlement where the matter at issue had not already been the subject of a complaint to the Ombudsman by the person affected. Thus, the issue is not primarily a question of the limitations on the Ombudsman's mandate, but rather the more fundamental difficulty of the propriety of the Ombudsman becoming involved at a late stage in an issue which had not been the subject of a complaint to her Office.
LATVIA	According to both aforementioned laws we are entitled to assist in reaching “friendly settlements”.
LITHUANIA	Yes. The Law on the Seimas Ombudsmen grants the right to the Seimas Ombudsmen to mediate in order to resolve problems

	addressed in the complaint in good will. The Seimas Ombudsman even refraining from the investigation on the merits of the complaint falling outside the remit of the Seimas Ombudsman can give proposals or offer commentaries to appropriate institutions or agencies on the improvement of public administration in order to prevent violations of human rights and freedoms.
LUXEMBOURG	Expansion of mandate would be required
MALTA	No. It would require an expansion of my mandate
NETHERLANDS	No expansion is needed as the Dutch National Ombudsman has a wide range of instruments he uses in order to settle cases in a friendly way
NORWAY	Assistance in reaching «friendly settlements» would at least in some cases require an expansion of the Ombudsman's mandate. As mentioned above, decisions made by the courts of law fall outside the Parliamentary Ombudsman's scope of powers. If a case has been brought before the national courts, the Ombudsman will therefore not engage in negotiations with the parties involved
ROMANIA	<p>In Romania, the People's Advocate uses specific procedures and means of action in order to solve the conflicts between the citizens and public administration authorities: inquiries, recommendations, special reports containing recommendations on legislation or measures of any other nature for the defence of citizens' rights and freedoms addressed to the both Chambers of Parliament or to the Prime-Minister, answering to phone requests and hearings.</p> <p>Furthermore, in Romania, within the Ministry of Foreign Affairs, the Governmental Agent for the European Court of Human Rights is organised; in its activity it gives the appropriate priority in reaching "friendly settlements" of the litigations in which the Romanian State is suited before the Court</p>
SCOTLAND	It is not clear how the Commissioner envisages that Ombudsmen would provide such assistance. The Ombudsmen have considerable

	<p>discretion as to how they conduct an investigation or deal with complaints. However, Ombudsmen have no power or duty to intervene in court proceedings or act on an “own initiative” matter so at the present time could not provide significant assistance in reaching friendly settlements, nor report back to the Court as to whether or not practices or situations declared in breach of the Convention by the Court persist or have actually been stopped. To do this would require an extension of the mandate.</p> <p>There may be a limited ability to assist the Commissioner for Human Rights in informing the Court whether or not an individual case reflected a widespread situation in one or several member States.</p> <p>However, we consider that Lord Woolf’s proposal for a friendly settlement unit in the Registry set out in his report “Review of the Working Methods of the European Court of Human Rights” merits further consideration. Under that proposal, one of the functions of that unit would be to maintain a list of accredited mediators in member states, who specialize in human rights issues. Additionally, his report identified staff in local offices of the Registry as a useful resource to assist in increasing the number of friendly settlements</p>
SPAIN	Nowadays, Spanish Ombudsman has no competence to supervise the content of judicial decisions and there is no provision allowing him to act in legal arbitration
SWEDEN	We are not entitled to provide any assistance in reaching “friendly settlements”. This would be totally alien to the Swedish ombudsman model and require a radical – and, in our opinion unwanted – expansion of our mandate.
TYROL	Not mentioned in my mandate, but it would be possible to provide assistance for that purpose
UNITED KINGDOM	It is not clear how the Commissioner envisages that the Ombudsman would provide such assistance. The Ombudsman has considerable discretion as to how she conducts an investigation or deals with

	<p>complaints. When she upholds a complaint, the Ombudsman’s staff can discuss with the bodies complained mutually acceptable proposals for redress, and may facilitate mediation between the parties. However, the Ombudsman has no power or duty to intervene in court proceedings or act on an “own initiative” matter so at the present time could not provide significant assistance in reaching friendly settlements, nor report back to the Court as to whether or not practices or situations declared in breach of the Convention by the Court persist or have actually been stopped. To do this would require an extension of her mandate.</p> <p>There may be a limited ability to assist the Commissioner for Human Rights in informing the Court whether or not an individual case reflected a widespread situation in one or several member States.</p> <p>However, we consider that Lord Woolf’s proposal for a friendly settlement unit in the Registry set out in his report “Review of the Working Methods of the European Court of Human Rights” merits further consideration. Under that proposal, one of the functions of that unit would be to maintain a list of accredited mediators in member states, who specialise in human rights issues. Additionally, his report identified staff in local offices of the Registry as a useful resource to assist in increasing the number of friendly settlements.</p>
VOJVODINA	Providing assistance in reaching “friendly settlements” is not within the jurisdiction of the Provincial Ombudsman and would require an expansion of the mandate of the Office
VORALBERG	Not mentioned in my mandate, but in practice mediation part of my work, it would be possible to provide assistance for that purpose
WALLON REGION	en droit administratif belge, il y a ce que l’on appelle le principe de spécialité. Le décret qui a créé l’Institution de Médiateur de la Région wallonne a imposé à cette Institution un rôle de médiation et n’a pas prévu des procédures de collaboration, d’envois d’informations et de coopérations avec le Commissaire aux droits de

	<p>l'Homme. Certes une autorité publique (telle que l'Institution de Médiateur de la Région wallonne) peut faire tout ce que peut faire une personne privée (comme conclure des contrats, des accords, etc). Cependant, le principe de spécialité signifie que n'importe quelle autorité publique ne peut pas, sans y être autorisée expressément par un texte, aller conclure des conventions et « discuter » avec des autorités internationales. Cependant, le Médiateur de la Région wallonne pourrait recommander qu'une procédure soit mise en place à cet effet.</p> <p>Il est à souligner que l'article 11 du Règlement d'ordre intérieur de l'Institution du Médiateur de la Région wallonne énonce d'ailleurs : « dans la mesure où cela peut contribuer à renforcer l'efficacité de ses enquêtes et à mieux sauvegarder les intérêts et droits des personnes physiques ou morales dont la réclamation est fondée, le Médiateur peut coopérer avec d'autres Médiateurs ».</p>
ZURICH	<p>Vermittlungshilfe für einvernehmliche Lösungen: Innerhalb ihres (kommunalen) Zuständigkeitsbereichs trägt die Ombudsstelle, die nicht nur Beschwerden prüft, sondern in zahlreichen Fällen auch Vermittlungsarbeit leistet, dazu bei, einvernehmliche Lösungen zu finden, wodurch Rechtsmittelverfahren vermieden und die Gerichte entlastet werden.</p>

**12. Are you entitled to control, as suggested, whether the Court's judgments have been effectively implemented, or would this require an expansion of your mandate?**

ALBANIA	<p>People's Advocate Office could control as suggested, whether the Court's judgments has been effectively implemented</p>
AMSTERDAM	<p>Yes, I am entitled to do that</p>
ANDORRA	<p>Selon la Loi de création et de fonctionnement du médiateur, nous ne sommes pas autorisés à contrôler la mise en œuvre des jugements de la Cour, il faudrait élargir mon mandat</p>

AUSTRIA	Yes, as far it concerns administrative authorities (governments)
BELGIUM	<p>Le Médiateur fédéral a compétence, s'il en est saisi, pour contrôler l'exécution effective des décisions des cours et tribunaux par les autorités administratives fédérales.</p> <p>Le Service des droits de l'Homme du Service public fédéral Justice, chargé d'effectuer la liaison entre la Cour et les différents départements concernés constitue une autorité administrative fédérale. Le Médiateur fédéral peut vérifier qu'une satisfaction équitable a bien été versée à un requérant.</p> <p>Notons par contre que le Médiateur fédéral n'a pas vocation à s'immiscer dans le débat politique concernant l'adaptation par le Législateur fédéral des dispositions légales critiquées par la Cour. Le Médiateur fédéral en Belgique n'a pas de mission consultative sur les projets ou propositions de lois.</p> <p>Par contre, il peut être amené à formuler une recommandation au Parlement si à la suite d'une plainte il constate un défaut d'exécution de la jurisprudence de la Cour.</p>
CATALONIA	Yes, the Catalan Ombudsman is entitled to do so
CROATIA	To control the implementation of the Court-s judgments there is no obstacles if it does not include other formal powers, than warnings, suggestions and recommendations that the Ombudsman is authorized to forward to state bodies
CZECH REPUBLIC	It would require expansion of the mandate
DENMARK	<p>The ombudsman is able to consider whether or not the framework of the European Convention is being applied correctly by the authorities. But, as stated above, it is not possible for the ombudsman to consider whether the Danish courts apply the convention correctly.</p> <p>If the correct implementation of the Strasbourg Court's judgments depends upon an act of Parliament it is also not possible for the ombudsman to consider the matter.</p>

ENGLAND + NORTHERN IRELAND + SCOTLAND + UNITED KINGDOM	No. Court judgments are generally not a matter for Ombudsmen, although they may look at a complaint that a body has not complied with a court order or failed to apply a judgment. Perhaps one way forward might be for each Ombudsman institution to include within its annual report an analysis of its casework demonstrating compliance with the European Convention (as interpreted by the Court) during the period in question. Any significant issues of non-compliance could be identified in this way and be passed to the Commissioner/Court as appropriate
ESTONIA	The Chancellor of Justice has the right to conduct such supervision.
FINLAND	Because of the Ombudsman's wide-ranging powers to obtain information suggested control activities are as such possible. Issues of this kind may be examined, inter alia, in the course of examination of a complaint issued before the office of the Ombudsman. However, I do not regard it necessary to engage in this kind of supervision on systematical basis, as there are other mechanism (the ministry of justice and the ministry for foreign affairs) responsible for the execution of the Court's judgments and to my knowledge there is no indication of problems in this area in Finland.
FLEMISH REGION	For a control of our own initiative, we would need an expansion of our mandate
FRANCE	S'il ne peut intervenir dans une procédure judiciaire en cours, le Médiateur peut, en revanche, en cas d'inexécution d'une décision de justice, enjoindre l'organisme mis en cause de s'y conformer. Il fixe même les délais de cette mise en conformité.  Ce pouvoir d'injonction est donc déjà en possession du Médiateur.
GREECE	Complaints about state agencies' refusal to comply with national courts' decisions fall directly within the Greek Ombudsman's mandate. The ECHR Court's decisions generate state member responsibility and therefore Greek state's conformity with them cannot be directly investigated. Still, such control can and is actually



	effected by the Greek Ombudsman indirectly, through demanding and recommending conformity directly with the dispositions of ECHR itself, as they have been interpreted by the Court.
GREENLAND	No. The Ombudsman has no jurisdiction over the judicial system
HUNGARY	Our office has a general view of the practice through the complaints received. The task of controlling the implementation of Court judgments could be realized only through the examination of complaints but the office does not dispose any apparatus for that.
IRELAND	Implementation of court judgments is not a matter for the Ombudsman, although she may examine complaints that a public authority has not complied with a court order or failed to apply a judgment. However, it might be helpful if the Commissioner were to notify the Ombudsman of those public authorities which fail to implement court judgments. The Ombudsman could use this information to inform her approach to the examination of complaints which she receives against those public authorities and in her assessment of systemic issues arising.
LATVIA	This would require expansion of our mandate, because such function is not provided in the Law.
LITHUANIA	It would require expansion of the Seimas Ombudsman's mandate.
LUXEMBOURG	No expansion required
MALTA	No. It would require an expansion of my mandate
NETHERLANDS	The Dutch National Ombudsman could monitor whether practices or situations declared in breach of the Convention by the Court persist or have actually been stopped
NORWAY	In his work, the Ombudsman obtains information about the case-law of the European Court of Human Rights and other human rights bodies such as the CPT and UN's Committee against Torture. In the areas included in his scope of powers, the Ombudsman can instigate investigations on his own initiative. Implementation of the specific judgements made by the European Court of Human Rights is

	<p>however not a part of the Ombudsman's tasks. As mentioned above, the Ombudsman's scope of powers does not include decisions made by the Norwegian courts. The majority of the judgements made by the European Court of Human Rights concerns cases that have been decided by the national courts</p>
SPAIN	<p>Spanish Ombudsman's mandate allows him to verify if they are taken in account by the administrative bodies in charge of it. In relation to the judicial implementation, the question goes so far; it has been recommended to the Spanish Government the implementation of legislative measures ruling a specific proceeding for the judicial execution of European Court's judgments. The Spanish authorities have reported that a working group has been commissioned to study the implementation of such future measures. By now, case by case, the Ombudsman can collect some reports about the consequences of a Court's judgment in the national judicial proceeding referred.</p>
SWEDEN	<p>We are not in a position to act as a supervisory body on a regular and general basis with regard to the implementation of the Court's judgments. It is, however, as we have touched upon above, within our mandate to exercise supervision not only by assessing complaints but also, as expressed in our Instruction, "by means of inspections and such other inquiries as (we) may find necessary." One of the Parliamentary ombudsmen could, accordingly, on a case by case basis find it necessary to conduct an investigation as to whether or not a certain practice, declared to be in breach of the Convention, persists.</p>
TYROL	<p>Since the right for ex officio auditing is not mentioned in my mandate, I am not generally entitled to it without an expansion of my mandate</p>
VOJVODINA	<p>Provincial ombudsman is not entitled to control whether the Court's judgements have been effectively implemented, and this would</p>

	require an expansion of the mandate of the Office
VORALBERG	Since I have the right for ex officio auditing, I am entitled to it without expansion of my mandate
WALLON REGION	<p>D'après l'article 12, §5 du décret instituant le Médiateur de la Région wallonne, « Le Médiateur ne peut remettre en cause le bien-fondé d'une décision juridictionnelle mais a la faculté de faire des recommandations à l'autorité administrative mise en cause.</p> <p>Il peut, en outre, en cas d'inexécution d'une décision de justice passée en force de chose jugée, enjoindre à l'organisme mis en cause de s'y conformer dans un délai qu'il fixe. Si cette injonction n'est pas suivie d'effet, l'inexécution de la décision de justice fait l'objet d'un rapport spécial présenté dans les conditions prévues à l'article 16, alinéa 2, et publié au Moniteur Belge ». (Moniteur Belge = journal officiel)</p>
ZURICH	Kontrolle der Umsetzung von Entscheiden des Gerichtshofes durch die Ombudsstelle: Die Ombudsstelle wird nicht in allgemeiner Form von sich aus tätig; die Befugnisse der Ombudsstelle sind hauptsächlich auf den Einzelfall bezogen. Wenn eine Person der Meinung ist, ein Entscheid des Gerichtshofes werde in seinem Fall nicht oder nicht richtig umgesetzt, kann sie sich an die Ombudsstelle wenden

**13. If you already work in one of these domains, please give examples:**

AMSTERDAM	<p>Very recently I've published reports, with recommendations for improvement, about the following subjects:</p> <ul style="list-style-type: none"> <li>- the lengths of proceedings in administrative cases.</li> <li>- article 8 of the Convention. In order to get welfare in Amsterdam the local government investigates if a citizen has a right to it. Part of this investigation of the local government is to enter the citizens home –after permission is given by this citizen- and look at the living situation. I investigated if the procedures and the conduct of the local</li> </ul>
-----------	--

	government were in accordance with article 8 of the Convention
ESTONIA	<p>For example, in a case of <i>Alver v. Estonia</i>, where the applicant alleged that the poor conditions of his detention on remand amounted to treatment contrary to Article 3 of the Convention. The Court held that there has been a violation of Article 3 of the Convention. But as after this court decision state agencies did not take any activities to improve detention conditions in jails, the Chancellor of Justice sent a memorandum to the Constitutional Committee of the Riigikogu concerning the problems ascertained in the court decision.</p> <p>In Chancellor of Justice annual overview 2003-2004 the problem of implementation of ECHR judgments in Estonian legal order is thoroughly analyzed. The main conclusion of that examination was that national law did not enable the re-opening of court-cases, where ECHR had established the violation. Chancellor of Justice held that the lack of this remedy was not in conformity with the objectives of Convention and was contrary to the Constitution. After presenting the report to Riigikogu, the proper bill to amend the court procedure acts was initiated.</p>
FRANCE	<p>Le pouvoir d'injonction, évoqué ci-dessus, est un des éléments importants de l'autorité du Médiateur.</p> <p>Il est rarement utilisé, l'administration admettant d'une manière générale le bien-fondé des recommandations de l'institution sans qu'il soit besoin d'en arriver à cette « mise en demeure ».</p> <p>Il a néanmoins été employé récemment ; une mesure d'expropriation d'un terrain, à des fins soi-disant d'utilité publique, n'avait toujours pas donné lieu, plusieurs années après et malgré plusieurs décisions de justice, au versement de l'indemnisation. L'État français reconnaissait sa responsabilité, mais chacun des ministères concernés refusait d'en assurer lui-même la charge. Le Médiateur, en adressant une lettre d'injonction au Premier ministre, a permis que l'affaire soit</p>

	tranchée et l'exécution de ces décisions de justice enfin acquise.
GREECE	<p>Strasbourg Court's decisions are very often evoked in Ombudsman's recommendation especially in cases of excessive police violence and maltreatment of prisoners and detainees (eg. Peers, Dougoz, Kaja). Yet, the closer the Ombudsman came to investigating the conformity of Greek state with Court's decisions, was its involvement with the rejection of the application for recognition of the "Home of Macedonian Civilization" despite Greece's condemnation by the European Court of Human Rights (ECHR) on July 1998 for having failed to recognize the association in question.</p>
HUNGARY	<p>The application of overwork directive to doctor's attendances encountered to budget obstacles. The ombudsman actively mediated in the debate of the Medical Association and the Minister of Health. The ombudsman has mediated in the debate of the Minister of Agriculture and the veterinarian concerning the obligatory free medical service of the veterinarian.</p>
LATVIA	<p>So far there haven't been any situations concerning forwarding of information to the Court through the Commissioner. That is because neither the Court, nor the Commissioner has showed interest in such information and also because LNHRO doesn't provide legal assistance in proceedings before the Court (as representative of applicant).</p> <p>Concerning the "friendly settlements" - at this year we have concluded two friendly settlements on unequal treatment. One was connected with case of sexual harassment at work place. And the second case was connected with the discrimination of person with disabilities (the company refused to provide necessary services). In both of these cases were concluded treaties, providing compensation for moral damages.</p> <p>Nonetheless "friendly settlement" can be achieved as a result of consideration of complaint. Usually these are approximately 5% of</p>

	all cases per year.
LUXEMBOURG	Since my entry into function in May, 2004, I did not have the opportunity to control the implementation of a Court's judgment holding a violation of the European convention of human rights by the Grand-Duchy of Luxemburg. Nevertheless I formulated two recommendations concerning the implementation of the Court's case law
NETHERLANDS	The Dutch National Ombudsman does not monitor the breach of the Convention as such, but does look into the protection of human rights and the carrying out of court cases. In the Netherlands, several decisions of courts have not been carried out properly by the State. The National Ombudsman wrote a report on this issue and demanded that the situation should improve. A comparable action or monitoring could be undertaken in case of decisions of the Court
NORWAY	Every year the Ombudsman makes several visits to prisons, mental institutions and other public institutions where human rights issues often arise. The Ombudsman also receives and investigates written complaints from individuals involving human rights issues and, as mentioned above, he instigates investigations on his own initiative into cases involving human rights issues
ROMANIA	<p>The constitutional and legal provisions regarding the People's Advocate does not comprise legal norms concerning the entitlement of the People's Advocate to control whether the Court's judgements have been effectively implemented.</p> <p>In Romania, in civil and in criminal matters, definitive judgements issued in the cases where the Court found a violation of a right provided by the European Convention for defending human rights and fundamental freedoms are subject to the revision (an extraordinary way of appeal), if the serious consequences of this violation does not stop and can not be solved in other way but by the revision of the court decision. The national court is competent to give</p>

	a decision for the revision request
TYROL	No
ZURICH	Beispiele: - Wahrung der Menschenrechte bei polizeilichen Zwangsmassnahmen - Gewährung ausreichender Sozialhilfe an Notleidende Personen - Gewährleistung lebenswichtiger Ressourcen (Wasser- und Stromversorgung)

**14. Can you imagine your co-operation with the Commissioner for Human Rights to go beyond what was suggested by the Group of Wise Persons and the Commissioner for Human Rights? If yes, please give details.**

ALBANIA	No
ANDORRA	La coopération nous paraît suffisante
BELGIUM	Pas à ce stade, mais nous sommes vivement intéressés à poursuivre la réflexion à ce sujet.
CATALONIA	The Ombudspersons could promote before the administrations they supervise that steps are being taken aimed at informing the public about the Court's mandate and competence and about the admission criteria as well as the possibility to resolve conflicts by mediation. Also, it could be set up an emergency mechanism that would enable the Ombudspersons, in cooperation with the Commissioner, to intervene immediately in situations where human rights are violated.
CROATIA	NOTE The recommendation to the Republic of Croatia to strengthen mandate of the Ombudsman explicitly, in the domain of human rights /general power/ would be advantageous. Furthermore, the problem of the Croatian Ombudsman Office is that it is not in this moment equipped enough with qualified personnel for suggested cooperation
ESTONIA	Effective co-operational activity can facilitate the Convention's control system and therefore an improvement in this field could be well useful.

FINLAND	Even closer co-operation is possible. It is however difficult to specify detailed suggestions at the moment.
FLEMISH REGION	No, complaints about violations of human rights are very rare, and we have no competence to investigate on our own initiative. If a general overall tendency towards an expansion of human rights competences were to be enhanced, we would of course be prepared to be a part of it and set up activity and complaint handling in that field.
FRANCE	<p>Il paraîtrait plus utile, dans un premier temps, d'examiner attentivement toutes les implications des propositions du Groupes des Sages avant d'aller plus loin.</p> <p>La collaboration entre les ombudsmans et médiateurs et le Conseil de l'Europe est indispensable; d'une part, il est important que le Commissaire dispose d'un réseau de correspondants privilégiés, indépendants des pouvoirs nationaux ; d'autre part, les institutions peuvent s'appuyer sur l'autorité morale du Commissaire pour renforcer, quand c'est nécessaire, leur propre influence ou élargir leurs compétences. Elles bénéficient en outre plus rapidement et plus facilement des informations relatives aux expériences menées, aux débats engagés et aux pratiques en cours dans l'ensemble des pays membres du Conseil de l'Europe.</p> <p>Cette ouverture sur l'extérieur est évidemment essentielle pour toutes nos institutions.</p> <p>Il n'en reste pas moins, ce principe étant affirmé, que la coopération ne pourra se dérouler au même niveau et au même rythme suivant les institutions. Les différences de champs de compétence, voire de culture juridique, au niveau de la Grande Europe interdisent une</p>



	<p>coopération avec des « règles uniques ». Il y a donc un risque de voir se développer des coopérations à deux vitesses entre le Commissaire et les ombudsmans et médiateurs. Ce risque doit être pris en compte.</p> <p>Deuxièmement, la notion d'indépendance est essentielle pour nos institutions. Elle figure d'ailleurs parmi les Principes de Paris qui inspirent notre fonctionnement comme celui des institutions nationales chargées des droits de l'Homme. Une articulation du travail entre le Commissaire et les ombudsmans, voire l'officialisation d'un « partage des tâches » entre eux pour réduire la charge pesant sur la Cour européenne, ne remettrait certainement pas en cause cette indépendance ; mais, vu de l'extérieur, le doute pourrait peut-être s'installer. La question mérite en tout cas d'être soulevée.</p> <p>Reste enfin la question des moyens, à la fois matériels et humains, devant être consacrés par les ombudsmans à cette coopération renforcée. S'ils doivent conduire, même de façon minime, à un affaiblissement des capacités nationales d'intervention, le problème n'aura été que déplacé de Strasbourg vers les capitales des pays membres...</p> <p>Une étude d'impact plus poussée sur ces différentes conséquences, ainsi que sur ce que pourraient être précisément les procédures de la coopération, serait très certainement utile.</p>
GREECE	One could think of extending cooperation on coordinating efforts in order to find and jointly propose solutions on issues, which go beyond merely those, which are likely to trigger large number of applications.
GREENLAND	It depends on the specifics. It is not for the Ombudsman to suggest expansions of her mandate, as this is subject to political debate in the Parliament.
HUNGARY	With the co-operative help of national ombudsmen the

	Commissioner with his significant influence could promote and precipitate the emergence of certain important rights and the realization of equal rights and equal opportunities in poorer countries as well.
IRELAND	No; in any event it would be best to adopt an incremental approach to co-operation. Further initiatives might be explored in time when the effectiveness of these initial proposals has been evaluated. The important issue is that the establishment of the network is approached positively by all concerned.
MALTA	<p>I would like to make the following final observations.</p> <ol style="list-style-type: none"> <li>1. The proposed network should fully recognize the independence and autonomy of the Ombudsman Institution and the functions that are proper to the Ombudsman foremost among which its essentially extra judicial character</li> <li>2. The Ombudsman Institution should not be considered in any way to be an appendage of the Court. Collaboration should be on an equal footing and within well defined procedural rules</li> <li>3. If it is intended to make recourse to the proposed network mandatory, this would require a) wide consensus on the proposed framework and its implementation among the EU member States; b) the involvement of the Ombudsman's Office in a particular court case has to be concluded within a pre determined time frame; c) the network has to have an in-built monitoring mechanism by the Court to ensure the uniform and correct application of established procedures</li> <li>4 The suggested intensification of co-operation between the Commissioner, the National and Regional Ombudsmen and the ECHR would also be beneficial in another important respect. There have been instances where the ECHR has shown, in its judgments, a lack of proper understanding and appreciation of the national procedural and substantive laws that regulate the facts of a case. This</li> </ol>

	<p>is understandable and I bound to happen because of the great diversity of legal systems and judicial background that sometimes make it difficult for judges from other legal cultures to fully appreciate the nuances of the legislative corpus of other countries. Having a judge originating from the defendant country on the panel apparently does not always satisfy this lacuna. The proposed network could develop into a very useful instrument for the Court providing a fruitful channel of communication at national level that cannot but be beneficial to its appreciation of the judicial issues involved/</p> <p>5. In my Ombudsplan for the year 2007, I have alerted the Malta House of Representatives to the renewed emphasis at European level that Ombudsman Institutions should have a human rights mandate. This issue has gained added relevance in view of the Government's declared intention to entrench the Ombudsman Institution in the Malta Constitution. A Bill to this effect has already been published.</p>
NETHERLANDS	It is imaginable that a part of the office of the Dutch National Ombudsman specialises in the actions of the Court and would fulfil a more active role in this field. This section would not only actively monitor the (carrying out of) cases nationally, but could also serve as an information desk and look for signs that might signal an infringement of the Convention. Additionally educational activities and active information dissemination could be undertaken by such a section
NORTHERN IRELAND + SCOTLAND + UK	No
SPAIN	We will do a deeper study of all conclusions reached at the final report of the Group of Wise Persons
TYROL + VORARBERG	Basically yes

ZURICH	<p>weitere Vorschläge für Zusammenarbeitsmöglichkeiten mit dem Kommissar: Nützlich wäre ein elektronischer Newsletter mit länderspezifischen Informationen des Kommissars, der periodisch über einen automatischen Mail-Verteiler an die Ombudsstellen versandt (und von dort nach Bedarf weiterverbreitet) werden könnte. Wünschenswert wären sodann regelmässige jährliche Konferenzen für den Erfahrungs- und Informationsaustausch. Dabei sollten die regionalen und kommunalen Ombudsstellen einbezogen werden, zumindest dort, wo (wie in der Schweiz) eine nationale Ombudsstelle fehlt. Danke!</p>
--------	--