

WEDNESDAY 1 FEBRUARY 2006

Present

Brown of Eaton-under-Heywood, L. (Chairman)
Clinton-Davis, L.
Lucas, L.
Neill of Bladen, L.
Norton of Louth, L.

Witnesses: **Mr Alvaro Gil-Robles**, Commissioner for Human Rights, Council of Europe, and
Mr John Dalhuisen, Special Adviser, examined.

Q1 Chairman: Commissioner, can I start by welcoming you formally on behalf of the Committee. We are enormously grateful to you for coming all the way from Strasbourg. We know how busy a schedule you have. We also know you have a deadline for your flight home and you have to leave at 5.20. We are live and there will be a transcript which will be sent to you. You have already had a list of the areas of questioning that we want to put to you. We know that you are the Commissioner for Human Rights of the Council of Europe. You are the first Commissioner, appointed in 1999 and therefore have been there for some six or seven years. Can we first ask you to tell us what you consider the Council of Europe's main function is in the field of human rights and your own role as Commissioner as part of that?

Mr Gil-Robles: (Through an interpreter) First of all, I would like to thank you for the invitation to join you here today. It is a great honour for me. I am very happy to be here with you to answer your questions. Secondly, I would like to apologise for my very poor English. I would not want to destroy Shakespeare's language. I therefore apologise for not speaking English today. I am guilty on this matter. I have been Commissioner for six and a half years. In two months my mandate will come to an end and I have a certain vision about past experience. To me, the Council of Europe should fulfil three main functions. The first one is

the creation of what I call the international legal framework in terms of human rights. This is absolutely essential. It is the main, large organisation specialising in this matter, being able to discuss in great detail the framework, treaties and international provisions in terms of human rights. Secondly, to me, it is the guardian of treaties in terms of human rights. Not only does it create the provisions but it makes sure that these provisions are complied with, through the Parliamentary Assembly, the Committee of Ministers, ECRI, the CPT, the various Commissions and the Court, of course, which is the main element and very essential in terms of respecting our treaties and, more recently, the Commissioner who is doing work on the ground. The third essential function would be maybe to help countries to make sure that this legal framework becomes a reality in every single country in their legislation and in the path towards democracy. I have seen a huge amount of work carried out by the Council of Europe in eastern countries, transforming an authoritarian mentality into a more democratic way of doing things, changing the judiciary, the police and the army. This is hugely important. It is very technical work which is carried out by the Council of Europe. It is not visible very often but it is essential. Those are the three main functions which justify the existence of the Council of Europe and its future work. Given the real democratic deficit that we are facing in many countries and the nature of many of the decisions taken in Europe, I think there is a huge amount that still needs to be done within the Council of Europe in this field. I hope that this has answered the first part of your question. Regarding the Commissioner's role it is difficult because it is always difficult to speak about yourself. The Commissioner has three main functions too. On the one hand, the Commissioner has to promote human rights in Europe, which is something that the Council of Europe has done in the past. It is nothing new. We work with NGOs, Ombudsmen and various organisations defending human rights. For example, in two weeks, in Russia I will be holding a final meeting with religious leaders. Discussions throughout a series of meetings have dealt with religion and human rights, with a

main, fundamental discussion to try and create a training institution for teachers dealing with religious education in Europe. It is the cultural basis of religions that we will be looking at. The churches have accepted this principle with the Commissioner in the past when discussing this. The second field of action is visits to countries to make sure that the Council of Europe's Conventions are applied because in my mandate it is said that the Commissioner has to monitor the effective respect for human rights. This is very important legally. It is not just theory; it is very practical. Our duty therefore consists of visiting countries, looking at the work of the police, for example, and the governments have to assist us in this. I decided personally that it was very important to work on the ground and also go out and consult with authorities and look at what they are doing. The third area is the opinions and recommendations in cases where there are serious problems in countries that do not comply with international treaties, the Convention or one of the protocols, which is a request that we see frequently. There is a fourth aspect that, to be frank, I had not really planned to discuss here but it just occurred to me. It is dealing with crises where the Commissioner has to step in in a major crisis such as Georgia. For example, in the crisis in Ajaria, I spent 11 hours negotiating with Mr Abashidze to convince him to step down from power before the arrival of Georgian troops. When the dictator shut down schools we managed to persuade him not to. With Spain, we had the problem of the Basques. We had Chechnya also. The Commissioner does additional work in relation to that of the Council of Europe. The Commissioner is independently elected and has a direct dialogue with governments. The opinions are those of the Commissioner, not the Council of Europe, before the Council of Ministers, before each individual country's government and before the general public. This is the Commissioner's responsibility, his strength, because the Commissioner can negotiate directly with governments.

Q2 Chairman: How large a staff have you as the Commissioner, roughly?

Mr Gil-Robles: I am very happy to be able to inform you that the Commissioner's office includes exactly ten people. Only four belong to the Council of Europe staff. The other people are sent by various Member States negotiated with Finland, Spain and the UK, which has made it possible for John to be with me today.

Q3 Chairman: I only ask that because I had the advantage of reading your very full report of June of last year on the situation in the United Kingdom following your visit here for something under a week in November 2004. I wondered how many Member States in the Council of Europe you are able to visit in a year and produce such comprehensive reports indicating how matters stand across a wide spectrum of institutions, criminal law, the police, prisons and so forth. How many such visits roughly can you make a year?

Mr Gil-Robles: A total of 34 countries by the end of my mandate. The last report will be the French one in two weeks. It is not an easy report on France. You will hear about it a great deal, I think. To draft the report in Russia I had to travel for 25 days from the Pacific to Moscow, from Siberia to the Volga. The principle that we apply is that I never speak about something that I have not seen with my own eyes. When I say to a government, "This is the situation" it is because I have seen it myself and I have talked to various people. I always say that the Commissioner's reports do not cover all issues in a particular country. I mention the most important issues with a strictly professional approach, which is the Commissioner and his teams working together. We never talk about something that is not absolutely certain or established as a certainty. I might feel like saying certain things at times but I cannot put them on paper because I do not have any evidence to support my opinions. I think it is very important to only say what you are certain about. Thousands of kilometres are covered on these visits. That is the only way of working, as far as I am concerned.

Q4 Chairman: It seemed to me to some extent it might help us see to what extent there may or may not be an overlap between the work that you undertake and that which it is proposed this new Agency will undertake. Can we move on to the network of independent experts on fundamental rights which, as I understand it, came into being in about 2002? To what extent does their work overlap with yours or with the Council of Europe's more generally?

Mr Gil-Robles: Frankly, I do not think there is an overlap between the two. It is a job that is very good technically, very well done by real experts, but it is not something that overlaps with our work. It is complementary. It is a very interesting task but it does not get in the way of what we are doing or what the Council of Europe is doing. If in the future the Agency was created I think the group of experts, however, should be working with the Agency and within the Agency. That would be logical but, to me, so far this has not been a problem.

Q5 Chairman: They should be incorporated into any new Fundamental Rights Agency, do you think?

Mr Gil-Robles: I think they should be. It would make sense. You cannot do technical work with this network of experts and have the same thing done within the Agency. These things should be done jointly.

Q6 Chairman: Do you support the proposal to bring into being this new Fundamental Rights Agency and do you think it will usefully complement the existing protections of human rights within the European Union?

Mr Gil-Robles: In all honesty, I have certain doubts on the mission of this Agency, or I did initially. Today, with my experience and my perspective, I think the idea of such an Agency is not a bad thing for the European Union. There is a legal space in the EU which is not accessible to the Council of Europe. If we manage to create a useful instrument to give the EU the tools for dealing with human rights with objective parameters, this will be very useful.

Unfortunately today, the Constitution has not been approved and the relations between the Union and the Council of Europe remain unclear. If there is such a vacuum, the Agency would indeed carry out a very important task. We have to be in favour of this and support its creation. What is important however is that this Agency brings something new and useful to the work of the Union, something effective without being a competitor of the Council of Europe. That would be a mistake. The various functions have to be very well coordinated and complement each other without competition. That is very important. If we manage to do it properly, I think the Agency has a role because ensuring the human rights compatibility of the Union's legal provisions is not something that we can control. Sometimes human rights and democratic values fall into oblivion. We can see that in Europe and in Brussels. If we were able to include those aspects in our work, this would be very useful as long as it dovetails effectively with the functions and competencies of the Council of Europe to avoid overlaps. It is also to do with the confidence that we have in the institutions. In my experience, working with the Union was very useful. I never had any problems working with the various Commissioners. Every time I wished to discuss a report of mine, or some other issue, there was never a problem. We can talk about it later if you wish.

Q7 Chairman: Would you hope that the Agency's interest in human rights would be confined to the scope of Community law?

Mr Gil-Robles: That is an important question. Should the Agency be restricted to dealing with Community law and the enforcement of Community law amongst Member States or should the Agency look at problems in accession countries or third countries when those third countries have agreements with the Union? In my view, the Agency fundamentally should concentrate on Community law and its enforcement, but the Agency has to be a useful instrument for the Union. If the EU has relationships with accession countries, candidate countries, the Agency should be in a position to provide an opinion to the Union to help

define its own position towards those third countries and accession countries, for people who want to join the EU. The Union's position in third countries is very important when it comes to human rights. I have seen how important the EU's position was in Russia and the Caucasus in terms of human rights. I was able to work with the EU to introduce in the Caucasus elements of human rights in the discussions between them and the Russians. Thanks to the EU's programme, we were able to organise training sessions, to create legal laboratories for people who had disappeared, to work with the police, very important tasks. If that is the EU's policy, the Agency could have that function which is very useful, but this has to be done in co-ordination with the Council of Europe as well. In my opinion, the Council has huge experience in dealing with those countries and the Agency therefore should include that experience. If I understand correctly what you ask me, the Agency has to be working with the whole legal framework, not only the European Convention on Human Rights and the Charter, but with all texts currently in existence in the field of human rights. It should not ignore the context or the interpretation of the Convention by the Strasbourg court and the Luxembourg court. It is within this broader context that the Agency has to define its opinions when dealing with the Union. I hope I have made myself clear.

Q8 Lord Lucas: Is there any precedent for the European Union acting in such a manner with the Council of Europe? Is there a pattern of co-operation that exists now that would serve as a pattern for the sort of co-operation you would like to see between the Fundamental Rights Agency and your successor?

Mr Gil-Robles: I can speak about my own experience. The Council of Europe has a number of agreements with the Union and the Union provides subsidies and grants for the work of the Council of Europe to a large extent. This is normal co-operation. The Council of Europe does not have a lot of money but the Union is rich so the Union supports the Council of Europe. On the other hand, in the past, the Union has asked the Commissioner for help.

During the enlargement of the Union, the Commissioner for Enlargement asked me personally if I could provide a report on the ten candidate countries and I visited those ten countries. I drafted a report for the Council of Europe and the Union used the Commissioner's report in those discussions. The same applied in the Caucasus, where I worked directly with the Union. In my view, the Commissioner should be working very closely with all international partners, the International Committee of the Red Cross, the High Commissioner for Refugees, the European Union. This is essential. Information should not be hoarded by any particular individual. It should be shared and we should pursue common objectives. Regularly, for example, I spoke to Commissioner Patten, the new Commissioner Mrs. Ferrero-Wladner, to Mr Vittorino, at the time as well, and Mr. Solana. Every time a particular human rights issue is of interest to us, I always talk to the Union to establish co-operation between us. This has worked very well. Personally, I am not afraid of dealing with questions of competence. We have to be very clear. We have to join forces as much as possible without being restricted by those issues of competence. I can assure you that there is good co-operation between the Council and the Union, between the Commissioner and the Union. This works perfectly well and this is something that we do on a daily basis. The programme promoting the regional Ombudsman institution in Russia launched by the Commissioner is a programme supported financially by the Union. I suggested this programme to the Union. They said, "Of course." When we want to do some work, we find a way of doing it.

Q9 Lord Neill of Bladen: Could I ask you a question about a statement you made a few minutes ago, where you referred to some investigations which are carried out by you and your colleagues in relation to candidate countries and third countries? One of the critics has said, about the proposal that we are now considering, great rigour is applied to the candidate countries. They are asked to meet a high standard in relation to human rights but, so far as the

countries which are already within the Union, there is no enforcement mechanism and there is no zeal displayed by anybody to ensure that appropriate standards are being observed. In your view is that a correct vision of the distinction between the candidate countries and their treatment and existing Member States?

Mr Gil-Robles: I do not really want to speak about the European Union's point of view. I am not the European Union. I am speaking as a Commissioner of the Council of Europe and it is also my strictly personal opinion here. I think it is normal to ask candidate countries to meet some minimum standards in order to be part of a group of countries which uphold some values which belong to them. Some countries which want to be part of the European Union have gone through changes which they would not have gone through had they not been candidate countries. We have greatly helped the people of those countries in order for them to recover a state of democracy much more quickly than if they were not candidate countries. You have said something that is very true. We do tend to look at what happens outside our borders. We do not really see what happens in our traditional democracies on a day to day basis. It really does concern me greatly because we think that democracy is a given. It is not a problem. We realise today that one has to face new problems and one is confronted with very serious problems. Our reactions are not very good when we look at the issues of immigration, of minorities, freedom of expression. We see that our responses are not exactly what they should be. When we look at the fight against terrorism we may not take the right measures. It may not be the right line of action, so it is right to have this type of reflection. It is true that in each country there are control mechanisms. We have courts, tribunals and ombudsmen in lots of countries, but within the European Union there is also the avenue of human rights, not only the Charter. The Charter exists but is not legally binding and human rights must be applied when Directives are drafted and when policies within the European Union are decided. It is not happening today. Today there is the Council of Europe, there are

national controls, but they do not exist in the European Union. There is a vacuum and a void here which this Agency could fill but I do not think countries should be treated differently. The same standards should be applied to all countries.

Q10 Chairman: This gap that you say exists and could be filled by the Fundamental Rights Agency I understood you to say is in relation to European legislative proposals simply within the Union, and you are concerned that they do not already take sufficient account of fundamental human rights. That would be a function quite distinct from the role played by the Council of Europe and your role in monitoring human rights compliance across the Member States. Is that right?

Mr Gil-Robles: Yes. Today, since the Union is not part of the Council of Europe, controls are not carried out. It is beyond the jurisdiction of the European Court of Human Rights. As a Commissioner, I cannot monitor the decisions taken at the level of the Union in terms of human rights but I can go to a country and say that there are things which are not quite right. I cannot formally say to Brussels that things are not quite right and the Council of Europe cannot do this either. Within this framework and this context, the Agency has a point of reference, not as a monitoring agency or an inspection agency. This is not what we are talking about. I think each country has its own mechanisms for that and it is up to each country to use their own mechanisms. This Agency would be a major information tool for the Commission, for the Council of Ministers, for the Parliament, which would give basic information for the elaboration of European policy in terms of human rights. I do not think this is within the scope of the political decision-making of the Union at the moment. There is no way to do this. There is something for racism and xenophobia, for example, but not on this. If we manage to create this Agency, it would be a very useful tool. It would not be a duplication of what the Council does. It would be an addition. Within the building of this Agency, the presence of the Council of Europe should be very much manifest. Otherwise, its

function will be diluted. The presence of the Council of Europe must be very real within the decisions of the Agency with agreements which would take account of all the experience of the Council of Europe, working together. We should not think of this Agency as a substitution to the Council of Europe because that would be negative. I think this Agency should be an addition which would encompass the wealth of information of the Council of Europe for the benefit of the whole of the Union. In terms of competencies, we really must define in the statutes the very precise role and function of everybody.

Q11 Chairman: You will have read Mr Van der Linden's letter of 20 January in response to the Committee's call for evidence. You have seen his views expressed on behalf of the Council of Europe. He is concerned and, to some extent, sceptical about the proposed role and worried about overlap, competition, the weakening of the pre-eminence of the Council of Europe and the European Court of Human Rights. Do you share those concerns or do you merely share his anxiety to be sufficiently clear in the precise role that the Agency is to play if it is brought into being?

Mr Gil-Robles: I understand perfectly President Van der Linden's position. I think his concern is pretty logical and understandable because he is saying one must not create institutions which will do the same as the Council of Europe already does. We must not create institutions which will be in competition with the Council of Europe. I totally agree with him because it is absolutely logical. Of course one must not create organisations to do things that are already done by other organisations. That is why I insist greatly upon the main objective of this Agency. Someone asked me the same question a few days ago and I said, "In the fight for human rights we need everybody and everything". I am not afraid of the creation of an Agency but, as Mr Van der Linden said, we must clarify each and every function and introduce elements which will lead to synergy and not a dilution or dispersion of tasks. Within the context of the European Union creating an awareness of human rights is

absolutely fundamental because within the European Union in Brussels this awareness is lacking. Democratic values are missing. Economic values are there broadly represented but on top of the *realpolitik* I think there should be a policy in terms of human rights. The European Parliament does give opinions on this, as does the Commission from time to time. If they both give opinions, of course it is positive, very good and it is necessary. The problem lies with the relationship with third countries. There we need to find some sort of mechanism of co-operation. I can speak about my own experience. I have worked with the OSCE, for example, and talked with commissioners in those countries. I would ask how I could help in certain countries and I would provide information and opinions. I do the same in Geneva with the High Commissioner for Human Rights. The idea is not to create little fields and scopes for everybody. We need to gather all efforts for a common objective. Human rights must not just be words for people; they must become a reality. Within the framework of my fight, the more people I have on my side the happier I am but of course it is a personal opinion which I am formulating. I did communicate this to Mr Van der Linden through a personal letter yesterday because I thought it was very important to give him my own opinion. That is the opinion which I am defending before you today. We must not be afraid. We must make progress. In Spanish, we say that the path is made by walking. You travel by walking and we must carry on walking.

Q12 Chairman: The Council of Bars and Law Societies in Europe has proposed that the main role of the Agency should be to promote human rights in the decision and policy making of the Union and advising therefore at the early stage, the pre-legislative stage. As I understand it, that is to some extent your view too. It is an advisory role at an early stage rather than a monitoring or enforcement role. In connection with the advisory role they gather information, they research, they assemble statistics and an overall knowledge of the problems

across the Union and feed that into the decision making process. Is that how you see it essentially?

Mr Gil-Robles: Yes. It is part of the activities of the Agency, regrouping and collecting this information and making it available to the main people who are responsible for legislation in the Union, but also to avail the states of this information because it must also be communicated to the states. States can ask for the Agency's opinion. It is also important for the Agency to rely on the Member States' co-operation. Member States should be able to give the necessary information to the Agency. The Agency is an instrument which is there to serve the Member States. It is not against the Member States. That is important. The Agency will gather information and the necessary elements for policy making and distribute it to the Member States. For me that is a very important role.

Q13 Chairman: JUSTICE, a body in this country who are giving evidence to us next week, have suggested that the monitoring of Charter rights by the Agency would complement the monitoring of ECHR Convention rights by the Council. Do you see that as the way ahead too? Do you agree with that? Should the Agency simply confine itself to the Charter and leave aside the ordinary Convention rights as it carries out its tasks?

Mr Gil-Robles: If the Charter exists, it is because the Convention exists. This is the culmination of 50 years' work so we cannot leave aside the Convention. The Agency must take account of the Convention and all the protocols which are around those organisations and also the interpretation by the Court of the Convention. It is all linked. That is what constitutes the wealth of the Court in Strasbourg. To me, it is very clear.

Q14 Chairman: Amongst President Van der Linden's concerns was that the Council of Europe was not going to be sufficiently represented on the body of the Agency. I am looking particularly at the points he was making on the details of the proposed Agency structure. He

thought that should be strengthened in favour of further representations by the Council. Would you agree with that?

Mr Gil-Robles: On this particular point, I totally agree with Mr Van der Linden. The Agency must incorporate the Council in a much more operative way, particularly on the management board. That must be very clear but I have one doubt as to the structure of this Agency. This Agency must be independent. That is absolutely fundamental. The presence of the Commission is too strong. It is the Commission which will decide the work programme of the Agency. Why? The Commission will probably say in future, "You can work on these particular rights and not on others." It is very difficult. It is in contradiction with the independent status of the Agency. The Agency should draft its own work programme and present it to the Commission and Parliament. This is real independence. On the executive board, for example, there are two representatives of the management board and two representatives from the Commission. Why two representatives from the Commission? One is fine, and another from the Council of Europe; that would be more sensible. The role of the Director should be stronger. These are very clear elements which also show that within the Commission there is some sort of fear of this Agency. One is trying to control this Agency somehow. This Agency must be useful. It must not be dead in the water. It is not something which should be controlled and monitored by the Commission, by the Parliament or by the Council. It should be independent and accountable. That is obviously a given. I agree with Mr Van der Linden that the presence of the Commission should be stronger.

Q15 Chairman: If the Commission is to be over-represented and the Council of Europe under-represented on the proposal as it stands, you would seek to even that up?

Mr Gil-Robles: Absolutely.

Q16 Chairman: The new Agency is to subsume the existing European Monitoring Centre on Racism and Xenophobia and to expand that into wider human rights concerns; and yet, at the same time as it is proposed to bring this into being, it is proposed to bring a quite separate body, a new European Institute for Gender Equality, into being. Do you think that is a good idea, to have now a second body concerned with some other closely related aspect of fundamental human rights?

Mr Gil-Robles: There is some contradiction. If the Agency wants to integrate the European Monitoring Centre on Racism and Xenophobia, yes, it is logical but in that case we could also incorporate as an essential part of the function of the Agency the fight for equality, because it is a major objective in terms of human rights today. It is true that there are lots of political and image issues here, but I am a very operative person. Instead of separating actions, we should concentrate things. The Agency could also deal with racism, xenophobia, first and second generation human rights and also gender equality. To me, it is a logical aspect of the fight for human rights. Operatively, it would be better to do all of this, but I am very cautious here because it is a very delicate political issue. I think the Agency can certainly be a specialist in terms of gender equality. Why not? It can be very active in terms of gender equality.

Q17 Chairman: How has the existing Monitoring Centre on Racism and Xenophobia worked in harmony with the Council of Europe because the Council of Europe and the European Convention on Human Rights are equally directed against racism and xenophobia. Has there been any overlap? Has there been any weakening of the Council of Europe's role because of that separate monitoring centre?

Mr Gil-Robles: No. The Council of Europe has ECRI, which does fantastic work. ECRI has never been in conflict with the Vienna centre. I organise seminars in Albania and other countries on issues of racism and xenophobia. I have invited the Vienna centre. We

cooperate and work together very well. ECRI is the major organisation in terms of the fight against racism and xenophobia and, to my knowledge, there has not been any negative influence or conflict between the Strasbourg vision and the Vienna vision. There is a perfect synergy between the two.

Q18 Chairman: If they worked harmoniously and non-competitively together and complemented each other's function without there being any formal structure such as you contemplate in respect of the relations between the new Agency and the Council of Europe, why cannot one look to equal success when the Fundamental Rights Agency, which is after all an extension of the existing monitoring centre, comes into being?

Mr Gil-Robles: I think it is a different matter because racism and xenophobia are two specific issues. The Agency will take on a greater role. We will be talking about all the structures of human rights. We are talking about all fundamental rights, all human rights and have a direct influence on the legislation and policy making of the European Union. Its function will be different from what the Agency can do today. Within ECRI you have the Council of Europe and the board of directors. The Agency does have a space. It will have to have a lot of means in order to become a major instrument in future. It should be able to use the Council of Europe as a decisive instrument so you would have the Agency and the Council of Europe. If they both work properly and very well, it will be a great strength in the fight for human rights because the European Union as it stands does assume its own responsibility and participate actively in the battle. It is not just something from the Council of Europe that exists. The European Union is a responsible, major player in terms of the fight for human rights but it must use the Council of Europe, its expertise, its history and its competence, in order to do the work. This is what must be clearly defined. As the Secretary-General of the Council of Europe and Mr Van der Linden say, all of this is not properly defined. If we can introduce these elements of good co-ordination, the synergy would be very

positive. I am absolutely certain of it. I am by nature an optimist. When I arrived as a Commissioner, I had 46 states, 900 million people to deal with and three civil servants. We still managed to do something. We need to look ahead and one must not be afraid.

Q19 Chairman: Ought you, in your capacity as Commissioner for Human Rights, to be on the executive board of the new Agency, do you think?

Mr Gil-Robles: My successor should be. I think it would be a very good thing because the Commissioner has an additional function which the Agency must not have. The Agency must not be a judge or a prosecutor. The Agency must simply gather information but the Commissioner can go out in the field, to countries and have a direct dialogue with various governments of the states that he or she visits. Good co-ordination between the Agency and the Commissioner would be a great strength in Europe for human rights. That is why the Commissioner must belong to the structure and be very clearly defined within the Agency. This is how I understand things. I would have liked an Agency to have existed in Europe when I started my work. It would have been wonderful and an immense support to the work of the Commissioner. We could have drafted work programmes, common projects and the means to carry them out. That is why I speak of my personal experience. My difficulty in Europe was always that I was working on my own. I had no choice. To have within the Union an institutional structure which could help is very important. When the Agency is created, the European Union will no longer be able to say, "We do not count in terms of human rights" because one can turn to an organisation which will give an opinion.

Q20 Chairman: The existing Monitoring Centre on Racism and Xenophobia has a staff of 37. The new Agency is proposed to start in January 2007 at that sort of size but to grow to 100 within about five years. If it does that, do you think there is any risk that it will overtake the role of the Council of Europe in the human rights field and submerge it?

Mr Gil-Robles: No. This is a little bit of fantasy within the European Union, this type of figure. The Agency will start to set up slowly and manage itself. We are not talking about having 100 people in five years' time. It probably will only need 40 or 50 people. Why 100 people? One might be able to do the work with 30, 40 or 50 people just as well. I do not think this is a significant figure. I think it illustrates these grand figures uttered by the European Union. I do not like that. We need the necessary amount of people and no more in order to do efficient work. Above all, I think we really need to work with individual countries and their national structures. The Agency must not be a substitute for the structures in each country. It must work with those structures. Why have 100 civil servants? That is my personal opinion again.

Q21 Lord Norton of Louth: To pick up on the last point you made about the role of national institutions, quite by chance I have just completed research on the role of national parliaments of the Member States and the Council of Europe in the protection of human rights and there are some quite interesting patterns there. I wondered how you would envisage national parliaments fitting into this particular process.

Mr Gil-Robles: It is absolutely essential because we must take account of national parliaments and their sensitivity. We must work with the human rights commissions which already exist. If they do not exist they must be created with ombudsmen within the parliament, with national institutions for human rights. We must work from the bottom up and not the other way round. In each country we need to do work which does not provoke antagonism in the fight for human rights. The Agency must not substitute work at the national level. National parliaments are absolutely essential. They are a fundamental element of the creation of this Agency.

Q22 Chairman: It remains only to thank you again for coming. It has been enormously helpful to us. We are very grateful. We wish you a good flight and we thank you and Mr Dalhuisen for coming and giving us such a splendid start to this inquiry.

Mr Gil-Robles: Thank you very much. I am terribly sorry that I have to catch a plane because it has been a privilege being with you and I am really sorry to have to leave. If I have been useful, if my opinion has been useful, then I am glad. If you need me, I am entirely at your disposal.