(Doc. 8598), with an oral opinion presented by Mrs Aguiar on behalf of the Committee on Legal Affairs and Human Rights.

The list of speakers closed at 12 noon today. There are twenty-two names on the list, and four amendments have been tabled.

I would remind you that, in order to finish by 8 p.m. exactly, we must interrupt the list of speakers at about 7.45 p.m. to allow time for the replies and the votes.

I call Mr Cilevičs, Rapporteur of the Committee on Migration, Refugees and Demography, to present his report. He has eight minutes.

Mr CILEVIČS (Latvia).- This year marks the 50th anniversary of the Council of Europe's most important achievement - the signing of the European Convention on Human Rights. It also marks the 50th anniversary of the decision of the United Nations General Assembly to set up the UN High Commissioner for Refugees. Issues related to the protection of refugees and asylum seekers, and full and fair implementation of their rights as enshrined in major international instruments have been an important part of the Council of Europe's activities. However, those principles are in danger of being undermined by a climate of hostility towards refugees, asylum seekers and others in need of international protection in Europe.

In recent years, many European governments have introduced restrictions in their immigration and asylum policies and practices, with a view to reducing substantially the number of refugees and asylum seekers on their territory. Moreover, those restrictions are reflected in the European Union's efforts to harmonise the asylum and immigration policies of its member and applicant states. That trend is related to the problem that we have just considered of the possible adoption of the Charter of Fundamental Rights of the European Union.

There are four types of restrictive policies and practices. The first is restrictions on access to territory designed to prevent undocumented travellers from arriving in Council of Europe member states, particularly with specific requirements or sanctions. The second is measures designed to expedite the consideration of applications or to shift the burden of determination procedure to other states. Such measures include provision for manifestly unfounded claims and accelerated procedures, as well as the concept of safe country of origin or safe third country (readmission agreements). The third is a restrictive interpretation of international refugee law, particularly the definition of a refugee. That includes the non-recognition of persecution by non-state agents or gender-related persecution as grounds for asylum, or the notion of the so-called internal flight alternative. The fourth is deterrents designed to make life uncomfortable for asylum seekers awaiting a decision. The ways in which those restrictive approaches are applied and several examples of the right to asylum being effectively denied are considered in detail in the report.

The Council of Europe has never formally incorporated the right of asylum into a legally binding instrument, but the European Convention on Human Rights has become a major source of refugee law and is invoked in asylum cases. However, the fact that a Council of Europe member state has ratified the European Convention on Human Rights does not mean that no situation will ever arise in which people under its jurisdiction may, because of a well-founded fear of persecution, seek political asylum in another country. Violations of the
Convention occur in almost all Council of Europe member states. The jurisprudence of the European Court of Human Rights offers clear evidence of that. Moreover, if the ratification of the Convention guaranteed its full and fair implementation, the European Court of Human Rights would be unnecessary.

The European Convention on Human Rights and international instruments on political asylum offer substantially different forms of protection from persecution. The Convention provides a legal evaluation of a case and a judgment, which the Council of Europe member state concerned is bound to accept, as well as a remedy, which can include financial compensation for the victim. International asylum instruments provide for the remedy of immediate protection, allowing individuals to escape persecution, sometimes even before it has occurred, on the basis of a well-founded fear of being persecuted. The two approaches are complementary rather than contradictory. They do not exclude each other. The incorporation of the right to asylum into the European Convention on Human Rights would be the best way to reconcile potential controversies.

Europe’s leading role as the birthplace of refugee protection makes it a model for the rest of the world. If Europe progressively lowers its standards of refugee protection, that example may soon be followed in other parts of the world, particularly countries with the least means to respond to the needs of millions of refugees. However, exporting restrictive policies will certainly lead to new problems being re-imported, because restrictions on asylum elsewhere in the world will inevitably increase the number of applicants in Europe.

Our attitude towards refugees, asylum seekers and others in need of international protection is a crucial indicator of our general level of tolerance of diversity in European society today, along with our attitude towards national and religious minorities, homosexuals and other distinct groups. Globalisation and growing interdependence inevitably make our societies ever more diverse. Restrictive asylum policies are probably inspired by fear of globalisation. I strongly believe that a willingness to help those in need is an important part of what we call our modern European identity. It is very important that our commitment to the Council of Europe’s founding values of democracy, the rule of law, human rights and fundamental freedoms, including freedom from persecution, should be universally declared. However, it is even more important that that commitment should be universally implemented in national legislation and multilateral treaties. The implementation of the measures suggested in the draft recommendation will facilitate the achievement of that goal.

THE PRESIDENT (Translation).- Thank you, Mr Cileviče. I call Mrs Aguiar to present the oral opinion of the Committee on Legal Affairs and Human Rights.

Mrs AGUIAR (Portugal) congratulated Mr Cileviče on his report, with which she was generally in agreement. There was no right to asylum in the European Convention on Human Rights but, even so, it was often brought up in court to prevent deportations and other such actions. It provided safeguards and remedies at the level of case-law, but it needed to make more specific provisions for the rights of asylum. She hoped that there would be better international co-operation on the harmonisation of asylum procedures. Mr Cileviče had made a realistic assessment of the legal barriers, which were being set up in Europe. Countries in Eastern Europe were coming under increasing pressure because of their restrictive practices. There was a need for national programmes of assistance for refugees. Courage and determination were needed to resolve those particular problems, which had arisen from