Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 11628
09 June 2008

The state of democracy in Europe

Functioning of democratic institutions in Europe and progress of the Assembly's monitoring procedure

Report
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Serhiy HOLOVATY, Ukraine, Alliance of Liberals and Democrats for Europe

Summary

Throughout the reporting period (April 2007-June 2008), the Monitoring Committee has continued to accompany the 11 countries currently under monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Monaco, Montenegro, Russian Federation, Serbia and Ukraine) and the three countries engaged in post-monitoring dialogue (Bulgaria, Turkey and "the former Yugoslav Republic of Macedonia") through the process of consolidating their democratic institutions.

The present report assesses both progress and shortcomings with respect to the recurrent issues raised in all these countries, namely: the separation of powers and the role of parliament; elections and electoral reform; political parties and their funding; the fight against corruption; media pluralism; local and regional self-government; conflicts and the role of parliaments in confidence building.

At the same time, periodic reports on the third and last group of 11 member states that are not subject to a monitoring procedure or engaged in post-monitoring dialogue have been prepared and are appended in the addendum to this report: Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

A number of proposals are also made regarding the relations of the Monitoring Committee with the other Council of Europe monitoring bodies and institutions, including the proposal to organise a hearing as a forum for exchanging ideas and identifying ways and means to improve synergies. The member states are also called upon to set up or enhance national mechanisms in charge of ensuring that appropriate follow-up is given to findings of Council of Europe monitoring bodies. A number of other suggestions – with a view, *inter alia*, to optimising synergies, capitalising on the monitoring bodies output into the Organisation's programme of activities and supporting the monitoring bodies' work by the allocation of additional resources – are addressed to the Committee of Ministers.

Contents **Page**

A. Draft resolution 3
B. Draft recommendation 9
C. Explanatory memorandum, by Mr Serhiy Holovaty 10
1. Introduction 10
2. The functioning of democratic institutions in Council of Europe member states 10
2.1. States under monitoring 10
2.2. States involved in a post-monitoring dialogue 37
2.3. Applications to initiate a monitoring procedure 40
3. The Monitoring Committee and the other Council of Europe monitoring mechanisms 42
3.1. Optimising synergies and capitalising on the monitoring bodies' output into the Organisation's programme of activities 43
3.2. Enhancing specific follow-up by the Council of Europe mechanisms themselves and by appropriate national mechanisms: in particular, parliamentary oversight 44
4. Conclusions 45
Appendix – Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the third group of 11 member states 47

A. Draft resolution

1. The Parliamentary Assembly acknowledges the work carried out by its Monitoring Committee in accompanying 11 countries currently under monitoring (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Monaco, Montenegro, Russian Federation, Serbia and Ukraine) and three countries engaged in a postmonitoring dialogue (Bulgaria, Turkey and "the former Yugoslav Republic of Macedonia") through the process of consolidating their democratic institutions in compliance also with the principles of the Rule of Law and the protection of human rights.

2. The Assembly welcomes in particular the initiative of the Monitoring Committee to contribute to its debate on the state of democracy in Europe by focusing this year's progress report on the functioning of democratic institutions in the above-mentioned member states on the basis of its most recent country monitoring reports. Some of the latter were prepared under accelerated procedure in order to enable the Assembly to react quickly and efficiently to urgent and critical situations, such as:

2.1. the dissolution of parliament by presidential decree in Ukraine, in April 2007, after months of political crisis;

2.2. the pre-term presidential elections in Georgia, in January 2008, called in a bid to resolve the political crisis which erupted in the country after several days of political protest and the declaration of the state of emergency in November 2007;

2.3. the post-electoral crisis in Armenia, in February 2008, which led to the declaration of the state of emergency and the tragic events of 1 March, including 10 deaths and more than a 100 persons wounded;

2.4. the preparation of the presidential elections in Azerbaijan, in October 2008.

3. On the basis of its Monitoring Committee's reports, the following progress and major shortcomings are to be noted.

4. With respect to the separation of powers and the role of parliament:

4.1. Although the role and influence in political life of parliaments has been gradually reinforced in a number of member states (Albania, Moldova), much remains to be done to strengthen parliamentary control over the executive and improve the checks and balances in Armenia, Azerbaijan, Georgia, Monaco, the Russian Federation and Ukraine. A proper role and appropriate rights should be guaranteed for the opposition, in accordance also with Assembly Resolution 1601 (2008), and political dialogue between the ruling majority and the opposition, both inside and outside parliament, must be initiated (Armenia, Azerbaijan) or improved (Georgia);

4.2. Constitutional reform is urgently needed to ensure effective separation of powers and properly functioning democratic institutions in Bosnia and Herzegovina, Monaco and Ukraine. It is still required in Turkey with a view to ensuring full compliance with the European Convention on Human Rights. The new Constitution has to be properly implemented in Montenegro. The assistance which the European Commission for Democracy through Law (Venice Commission) is offering or could offer to these member states in the process of constitutional revision, often upon the request of the Monitoring Committee, is of significant importance;

4.3. The independence of the judiciary from the other branches of power should be strengthened in Armenia, Azerbaijan, Bulgaria, Georgia, Monaco, Montenegro, Serbia, the Russian Federation and Ukraine;

5. With respect to elections and electoral reform:

5.1. The Assembly, referring also to its Resolution 1547 (2007) on the state of human rights and democracy in Europe, reiterates that holding free and fair elections is an essential element of a democracy and a prerequisite for building democratic institutions;

5.2. Throughout the reporting period (April 2007-June 2008), parliamentary or presidential elections have been held in most states under monitoring or engaged in a postmonitoring dialogue and were observed by an Assembly delegation: Armenia, Georgia, Monaco, Montenegro, the Russian Federation, Serbia, "the former Yugoslav Republic of Macedonia", Turkey and Ukraine;

5.3. Electoral reforms are still needed in Albania, Armenia, Azerbaijan, Georgia, Montenegro, Moldova, Russia, Serbia, Ukraine and Turkey. In particular, such reforms, possibly with the assistance of the Venice Commission, should ensure:

5.3.1. that the electoral threshold, which remains too high, be lowered in particular in the Russian Federation (7%) and Turkey (10%). In this respect, the Assembly welcomes the lowering of the electoral threshold to 3% in Bosnia and Herzegovina and to 5% in Georgia, whereas it regrets the recent decision of the Moldovan Parliament to raise this threshold for party lists up to 6%;

5.3.2. improved voters' lists in Albania, Georgia, Montenegro and Ukraine and the abolition of provisions allowing for persons travelling abroad during the period prior to elections to be removed from the voters' list in Ukraine;

5.3.3. an impartial and transparent election administration in Armenia and Azerbaijan with a view to restoring public confidence in the electoral process;

5.3.4. an effective election-related complaints and appeals procedure in Armenia, Azerbaijan, Georgia and Moldova;

5.3.5. an equal playing field, including an equal and unbiased campaign coverage, in Armenia, Azerbaijan, Moldova and the Russian Federation; in the latter, the absence of this condition led the Assembly observers to conclude that the parliamentary elections of December 2007 were free but not fair;

5.3.6. proper separation between the state and political parties/candidates in Montenegro and in the Russian Federation;

5.3.7. that harassment and intimidation of opposition candidates and supporters are eradicated in Armenia, Azerbaijan, Georgia and the Russian Federation;

5.3.8. that constitutional and legislative provisions providing for the recall of peoples' representatives by the political parties (the so-called "imperative mandate") should be abrogated in the Russian Federation, Serbia and Ukraine;

5.3.9. that the legislative provisions in Serbia and in Montenegro allowing political parties to change after the elections the order of the candidates on the party lists should be abolished as limiting transparency and misleading voters;

5.4. Following investigation by the Monitoring Committee into an application to initiate a monitoring procedure with respect to electoral fraud in the United Kingdom, it was concluded that the electoral system in Great Britain is clearly open to electoral fraud, in particular as a result of the rather arcane system of voter registration without personal identifiers. This vulnerability was exacerbated by the introduction of postal voting on demand, especially under the arrangements as existed before the changes in the Electoral Code in 2006. However, despite these vulnerabilities in the electoral system, since elections in the United Kingdom are conducted democratically and represent the free expression of the will of the people, the Assembly decided not to open a monitoring procedure with respect to the United Kingdom.

6. With respect to political parties and their funding:

6.1. The Assembly reiterates that the recall of peoples' representatives by the political parties (the so-called "imperative mandate") is unacceptable and contrary to the principles of the Rule of Law and the separation of powers. Regulations on the registration of political parties and the prohibition of electoral blocs, combined with the 7% electoral threshold, make it extremely difficult for new and small parties to compete effectively in the Russian Federation;

6.2. With regard to financing, the Assembly refers to the initial results from the evaluations carried out by the Council of Europe's Group of States against Corruption (GRECO) in its Third Evaluation Round on transparency of party funding which show that, while member states have intensified their regulatory efforts in this area, domestic standards vary considerably among them and fall short, in some respects, of Council of Europe standards;

6.3. The Assembly thus recommends that all member states which have not yet established independent, specialised and strong mechanisms of control over political party funding should do so at their earliest opportunity;

6.4. The Assembly reiterates its recommendation that a law on political parties be adopted with a view to ensuring the transparency of party and campaign funding in Monaco and Montenegro.

7. With respect to the fight against corruption:

7.1. Despite commendable efforts made by the authorities, with the assistance of the Council of Europe, the adoption of National Anti-Corruption Strategies and the implementation of action plans, corruption remains a major problem in practically all member states under monitoring;

7.2. The Assembly urges the authorities of the member states to implement the recommendations made by GRECO, in particular improve domestic legislation and effectively implement the measures adopted. State efforts in eradicating corruption should include measures not only in the area of repression but also in prevention and policy co-ordination. In this respect, the Assembly recalls its recommendation that measures be taken to guarantee a professional civil service respectful of ethical rules in Albania, Georgia and Ukraine;

7.3. Ukraine should ratify the Council of Europe's Criminal Law Convention on Corruption (ETS No. 173).

8. With respect to media pluralism:

8.1. The absence of media pluralism has raised Assembly concerns to various degrees in Armenia, Azerbaijan, Moldova and the Russian Federation. Deficiencies caused by the monopolisation of some mass media by political groups and businessmen in Serbia have also given rise to concerns. The independence of media regulatory bodies should be guaranteed in Armenia and Azerbaijan;

8.2. Despite efforts made with Council of Europe assistance, the creation of a genuinely public broadcasting service has not yet been completed in Albania, Armenia, Azerbaijan, Moldova, the Russian Federation and Ukraine. In Bosnia and Herzegovina, which has one of the most advanced self-regulatory mechanisms in Europe; the establishment of a unified public service broadcasting service with state-level management is one of the requirements for signing the Stabilisation and Association Agreement with the European Union;

8.3. Censorship, prosecution and imprisonment, intimidation of journalists or even physical threats against them continue to occur in Azerbaijan, the Russian Federation and Turkey. The Assembly welcomes the fact that defamation has been decriminalised in Bosnia and Herzegovina, Georgia and Ukraine and partially decriminalised in Moldova and in "the former Yugoslav Republic of Macedonia". At the same time, professional ethics of journalism have to be improved in many member states, possibly with Council of Europe assistance;

8.4. An investigation by the Monitoring Committee into an application to initiate a monitoring procedure with respect to the monopolisation of the electronic media and possible abuse of power in Italy confirmed that Italy's media spectrum was clearly experiencing an anomaly in its television sector with one of the highest levels of concentration on the national level in Europe. However, Italian citizens generally have access to a wide variety of information sources and content diversity across the media landscape. Therefore, the Assembly concluded that the anomaly in one of its electronic media sectors did not in itself warrant the initiation of a full-fledged monitoring procedure with respect to Italy but that the legislative developments in Italy should be followed in the Monitoring Committee's periodic reports.

9. With respect to local and regional democracy:

9.1. The Assembly notes that in many member states under monitoring or engaged in a post-monitoring dialogue, decentralisation reforms should be stepped up. The lack of clear assignment of competences to local authorities is an obstacle to effective decentralisation in Armenia, Azerbaijan, Bosnia and Herzegovina, Moldova and Serbia. Moreover, revenues devolved to local authorities often do not match the decentralised competences and are unevenly distributed (Armenia, Bosnia and Herzegovina, Moldova, Serbia, "the former Yugoslav Republic of Macedonia", Ukraine). The unsettled issue of devolution of property prevents local authorities from exercising their competences effectively in Bosnia and Herzegovina, Montenegro, Serbia and "the former Yugoslav Republic of Macedonia". Supervisory procedures are often complex and unclear, thus creating the risk of undue interference of central authorities in the activities of local and regional authorities (Armenia, Azerbaijan, Moldova);

9.2. In some member states, local authorities are too small and weak to take over substantial competences in the provision of the main public services (Armenia, Azerbaijan, Moldova). The Assembly therefore welcomes and further encourages the efforts of the authorities of these countries to establish mechanisms of inter-municipal co-operation, for instance in Armenia and Moldova.

Furthermore, the Assembly encourages member states to consider drawing up and implementing territorial reforms to establish stronger and financially more sustainable communities. Where appropriate, such reforms should include the establishment of autonomous regional structures with increased operational and financial capacity;

9.3. Furthermore, effective decentralisation requires the building of capacities on both sides, namely, for the central government, to work in the context of decentralised service provision and, for the local authorities, to participate fully in the delivery of policies of decentralisation and continually improve their performance by boosting the standards of their leadership and strategic management, service provision, community participation and public ethics (Armenia, Azerbaijan, Bosnia and Herzegovina, Moldova, Serbia, "the former Yugoslav Republic of Macedonia", Ukraine).

10. With respect to the continuing existence of unresolved conflicts in member states under monitoring:

10.1. The Assembly considers that democratic developments in Azerbaijan, Georgia and Moldova cannot be consolidated as long as their territorial integrity is not restored;

10.2. The Assembly welcomes the Monitoring Committee's initiative to organise in Berlin, in November 2007, a hearing "on frozen conflicts" with respect to the conflicts of Nagorno-Karabakh, Abkhazia, South Ossetia and Transnistria. In this respect, the Assembly reaffirms the role that national parliaments can play in promoting confidence building as a prerequisite for the peaceful settlement of conflicts. The Assembly itself can also help foster a positive negotiating climate, through dialogue at the parliamentary level. Therefore, the Assembly encourages the organisation of further hearings on the above-mentioned conflicts;

10.3. At the same time, the Assembly regrets that no significant positive developments have been registered during the reporting period (April 2007-June 2008) with respect to any of the above-mentioned conflicts; the tensions have recently escalated with respect to the Abkhaz and South Ossetian conflicts.

11. The Assembly urges all states currently under monitoring or engaged in a post-monitoring dialogue to continue their co-operation with the Monitoring Committee and to implement all the recommendations contained in the country-specific resolutions adopted by the Assembly. It reaffirms its readiness to provide necessary support to the countries concerned through its parliamentary cooperation and assistance programmes.

12. Furthermore, the Assembly takes note of the periodic reports on the third and last group of 11 member states among those member states which are not subject to a monitoring procedure or involved in a post-monitoring dialogue: Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. As in the previous two years, they are based on the country-by-country assessments made by the Commissioner for Human Rights and other Council of Europe monitoring mechanisms or institutions.

13. On the basis of these reports, which are appended to this year's progress report of the Monitoring Committee, the Assembly:

13.1. urges the national parliaments of the countries concerned to:

13.1.1. use these reports as the basis for a debate on their country's record with regard to the fulfilment of their statutory and conventional obligations as member states of the Council of Europe;

13.1.2. promote execution of the judgments of the Court and compliance with recommendations made by the Commissioner for Human Rights and other specific Council of Europe monitoring bodies, both by provoking and accelerating the necessary legislative initiatives and exercising their role of oversight with respect to government action;

13.2. invites the European Union bodies, as far as applicable, to use these reports and take into account the findings of the Council of Europe human rights institutions and monitoring mechanisms, such as the judgments of the Court and reports of the Commissioner for Human Rights and of the Assembly's Monitoring Committee, as well as the relevant resolutions and recommendations adopted by the Assembly;

13.3. urges:

13.3.1. Sweden, Switzerland and the United Kingdom to sign and ratify, and Norway, Portugal, Slovakia, Slovenia and Spain to ratify, Protocol 12 to the European Convention on Human Rights (ETS No. 177);

13.3.2. Poland and Spain to ratify Protocol 13 to the European Convention on Human Rights (ETS No. 187);

13.3.3. Switzerland to sign, and Poland, Slovakia, Spain, and the United Kingdom to ratify, the revised European Social Charter (ETS No. 163);

13.3.4. Poland, Romania, Spain, Switzerland and the United Kingdom to sign and ratify, and Slovakia and Slovenia to ratify, the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158);

13.3.5. Portugal, San Marino and Switzerland to sign and ratify, and Spain and the United Kingdom to ratify, the Civil Law Convention on Corruption (ETS No. 174);

13.3.6. San Marino and Spain to ratify the Criminal Law Convention on Corruption (ETS No. 173);

13.3.7. Switzerland to adopt a law on political parties with a view to ensuring the transparency of party funding.

14. The Assembly notes that the year 2008 marks the end of the first three-year cycle of periodic reporting carried out by its Monitoring Committee on all member states not subject to a monitoring procedure or involved in a postmonitoring dialogue.

15. In carrying out this periodic reporting, as well as its own country-specific monitoring procedure through its Monitoring Committee, the Assembly has continued to benefit from the work carried out by other Council of Europe institutions and monitoring bodies, in particular: the European Court of Human Rights; the Committee of Ministers in its supervisory function of the execution of the Court's judgments; the European Committee of Social Rights; the Commissioner for Human Rights; the Congress of Local and Regional Authorities of the Council of Europe; the Group of States against Corruption (GRECO); the Committee of Experts on the Evaluation of AntiMoney Laundering Measures and Financing of Terrorism (MONEYVAL); the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); the Advisory Committee on the Framework Convention for the Protection of National Minorities; the Committee of Experts of the European Charter for Regional or Minority Languages and the European Commission against Racism and Intolerance (ECRI). The European Commission for Democracy through Law (Venice Commission) is of special importance, since, with its expertise, it significantly assists both the Monitoring Committee's rapporteurs in their tasks and the member states in honouring their obligations and commitments. The work of the European Commission for the Efficiency of Justice (CEPEJ) is also of relevance.

16. At the same time, the Assembly has continued to promote the work of all these institutions and monitoring bodies in particular by calling for the execution of judgments of the Court or the implementation of the recommendations of those instruments and bodies in all countries subject to monitoring, post-monitoring dialogue or periodic reporting.

17. The Assembly commends the remarkable work carried out by the Council of Europe human rights institutions and monitoring bodies and the *acquis* they have established over the years. In this respect, the Assembly believes that the efficiency of this unique monitoring machinery can be further enhanced by defining tools aimed at optimising synergies and enhancing co-operation among the various bodies, while preserving their independence and respecting their mandates, distinct working methods and priorities.

18. Since this would be beneficial to its own work, the Assembly therefore welcomes the Monitoring Committee's initiative to organise a hearing as a forum for exchanging ideas and identifying ways and means to improve synergies among all those primarily concerned, namely the Council of Europe institutions, bodies and mechanisms referred to above in paragraph 15.

19. With a view to ensuring increased efficiency, the Assembly also calls on member states to set up or enhance national mechanisms in charge of ensuring that appropriate follow-up is given to findings of Council of Europe monitoring bodies.

20. The Assembly stresses that national parliaments should be regularly informed of measures taken by the governments to implement recommendations by Council of Europe monitoring bodies, as well as to ensure execution of the judgments of the Strasbourg Court.

21. The Assembly reiterates that parliaments have a special role in promoting implementation of recommendations or the execution of judgments of the Court by either initiating and adopting the required legislation or exercising their role of democratic oversight of government action.

B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution … (2008) on the functioning of democratic institutions in Europe and the progress of the Assembly's monitoring procedure, in which it commends, *inter alia*, the remarkable work carried out by the Council of Europe human rights institutions and monitoring bodies and the *acquis* they have established over the years, and recommends that the Committee of Ministers:

1.1. take into account the findings contained in the resolutions and recommendations adopted by the Assembly on country monitoring reports in its own periodic reporting procedures;

1.2. amplify and reinforce existing assistance programmes to support member states in the implementation of obligations and commitments to the Council of Europe, by allocating appropriate financial resources to them and making use of donor funding when necessary;

1.3. work with the member states to develop, where appropriate, new targeted co-operation programmes to further strengthen democratic institutions, making full use in particular of the possibilities within the framework of the various European Union financial instruments;

1.4. ensure that the findings and recommendations of the various Council of Europe monitoring bodies and human rights institutions are fed directly into the Organisation's programme of activities in particular as regards standard setting, expert assistance and co-operation programmes. For this purpose, these bodies and institutions could be invited to give their views as to what they consider to be priority areas in good time before the adoption of the Organisation's programme of activities;

1.5. support the Council of Europe's monitoring bodies and human rights institutions by allocating additional resources so as to further enhance their efficiency and to enable them to strengthen their follow-up procedures aimed at verifying the implementation of their recommendations by the member states;

2. The Assembly also asks the Committee of Ministers to invite the authorities of the member states to:

2.1. set up or enhance national mechanisms in charge of ensuring that appropriate follow-up is given to findings of Council of Europe monitoring bodies;

2.2. ensure that national parliaments are regularly informed of measures taken by the governments to implement recommendations by Council of Europe monitoring bodies, as well as to ensure execution of the judgments of the Strasbourg Court.

C. Explanatory memorandum, by Mr Serhiy Holovaty

1. Introduction

1. Following the approval by the committee of the proposed outline at its meeting of 18 March 2008, I have been able to finalise this year's progress report so as to ensure that this could be a meaningful contribution to the Assembly's debate during the June part-session on the state of democracy in Europe.

2. Therefore, the present report does not simply present the activities of the Monitoring Committee during the reporting period, that is from April 2007 to June 2008, but enters into the merits and summarises the situation with respect to the functioning of democratic institutions in all member states currently under a monitoring procedure, involved in a post-monitoring dialogue or for which the initiation of a monitoring procedure has been requested (see below, under II).

3. To do this, I have of course limited myself to references to texts adopted by the Assembly, reports or other public documents prepared by our committee's co-rapporteurs who follow the situation in each specific country. I have also used the reports drawn up by the ad hoc committee of the Assembly on election observation in these countries since this exercise is closely linked to the work carried out by our committee. I have not engaged myself in any analysis or conclusions beyond what has been proposed by the co-rapporteurs concerned or the Assembly observer delegations.

4. I have tried to make a synthesis in the draft resolution of the recurrent issues raised in all countries under monitoring and (to a lesser extent) in countries engaged in a post-monitoring dialogue on the basis of a thematic outline similar to that of most reports prepared by our committee. Thus, the following issues are dealt with, while references to specific countries are made: separation of powers and the role of parliament; elections and electoral reform; political parties and their financing; the fight against corruption; media pluralism; local and regional self-government; conflicts and the role of parliaments in confidence building.

5. At the same time, and in accordance with the practice established since 2006, periodic reports on the third and last group of 11 member states among those member states which are not subject to a monitoring procedure or involved in a post-monitoring dialogue have been prepared and are appended in the addendum to this report: Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom. As in the previous two years, they are based on the country-by-country assessments made by the Commissioner for Human Rights and other Council of Europe monitoring bodies and human rights institutions. The draft resolution contains conclusions drawn from these periodic reports (see also the appendix).

6. Since this year marks the end of the first three-year cycle of periodic reporting carried out by our committee on all member states not subject to a monitoring procedure or involved in a post-monitoring dialogue, I have taken this opportunity to make some observations and proposals as regards the relations between our committee and the other Council of Europe bodies and institutions, with a view to optimising synergies and increasing efficiency (see below under III, as well as the draft resolution and draft recommendation).

2. The functioning of democratic institutions in Council of Europe member states

2.1. States under monitoring

2.1.1. Separation of powers and the role of parliament

Albania

7. In its Resolution 1538 (2007) on the honouring of obligations and commitments by Albania, the Assembly welcomed the fact that the parliament has continued to reinforce its influence and role and, despite disagreements about voting procedures, has made steady improvements in its technical operation.

8. The Assembly regretted that relations between the political parties had remained polarised and fraught, thus slowing parliamentary work on reform. All the political parties in Albania share responsibility for strengthening the powers and role of the parliament. The Assembly underlined that major reforms require broad political consensus which should be reached in parliament.

Armenia

9. The 2005 constitutional reform in Armenia improved the separation and balance of powers and made the system of government more consistent with European standards for democracy and the rule of law.

10. However, both the Venice Commission, which closely assisted Armenia in carrying out this constitutional reform,[1] and the Assembly, in its Resolution 1532 (2007) on the honouring of obligations and commitments by Armenia, adopted in January 2007, stressed that the effective implementation of the new system of government required an improvement in the political climate and the institution of dialogue between the ruling coalition and the opposition.

11. Regrettably, the lack of such a dialogue and the failure of the key institutions of the state to perform their functions in full compliance with democratic standards and the principles of the rule of law and the protection of human rights led to the crisis that followed the presidential election of 19 February 2008 and culminated in the tragic events of 1 March 2008. As a result, 10 people died and about 200 people were injured.

12. In particular, the National Assembly of Armenia has so far failed to play its role as a forum for political debate and compromise between the different political forces. Based on a "winner takes all" attitude, the current political system excludes the opposition from any effective participation in the decision-making process and governance of the country. Moreover, part of the political spectrum in the country is not represented in the current National Assembly.

13. In its Resolution 1609 (2008) on the functioning of democratic institutions in Armenia, adopted on 17 April 2008, following a debate under urgent procedure of the report of the Monitoring Committee (see Doc. 11579), the Assembly urged once again the Armenian authorities to reform the political system in order to ensure a proper role and appropriate rights to the opposition (see also Resolution 1601 (2008) on the rights of the opposition).

14. In order for the country to move forward with urgently needed reforms, including the reform of the political system in the above-mentioned terms, the Assembly asked that an open and constructive dialogue be seriously engaged between the political forces in Armenia, including both parliamentary and extra-parliamentary ones. The initiation of such a dialogue is one of the requirements that should be met by the opening of the Assembly's June 2008 part-session. Otherwise, the Assembly should consider the possibility of suspending the voting rights of the Armenian delegation.

Azerbaijan

15. Since accession to the Council of Europe, the Parliament of Azerbaijan has reinforced its role as a forum for political debate and an instrument for pushing forward democratic reforms. However, much remains to be done to strengthen parliamentary control over the executive and improve the checks and balances in a state governed by a strong presidential system.

16. Therefore, the Assembly, in its Resolution 1545 (2007) on the honouring of obligations and commitments by Azerbaijan, adopted on 16 April 2007, on the basis of a report by the Monitoring Committee (Doc. 11226), invited the authorities of Azerbaijan to consider in due course (for instance after the forthcoming presidential elections of October 2008) the possibility of revising the constitution to improve the balance of power and strengthen the role of the parliament, with the assistance of the Venice Commission.[2]

17. Also, the role of parliamentary committees should be further developed. Recourse should me made to laws elaborated and discussed within the parliament and its committees, rather than to presidential decrees, to regulate important matters, including those related to the honouring of obligations and commitments undertaken upon accession to the Council of Europe.

18. The aftermath of the November 2005 parliamentary elections was marked by a further weakening of the opposition both inside and outside parliament. Despite Assembly calls to the contrary, a number of opposition members have refused to take their seats in parliament or boycotted the May 2006 partial re-run elections. Subsequent splits within the opposition have further weakened its position.

1. See the relevant opinion of the Venice Commission in Document CDL-INF(2005)25.
2. See the relevant opinion of the Venice Commission in Document CDLINF(2001)26.

19. In its Resolution 1545 (2007), the Assembly stressed that dialogue urgently needs to be established between the ruling majority and the opposition both inside and outside parliament if the political climate in the country is to be improved.

20. So far no progress has been made in this area. The opposition parties consider they have not been involved in the revision of the Electoral Code and believe the forthcoming presidential elections will be a farce. One opposition leader, Mr Ali Kerimli, Chairman of the Popular Front Party, has declared that his party is ready to boycott the elections if no substantial progress occurs as regards the functioning of the electoral commissions and the freedom of assembly. The Monitoring Committee corapporteurs have repeatedly urged all political parties to take part in the elections (Document AS/MON(2008)10 rev., paragraph 78).

Bosnia and Herzegovina

21. Already in 2004, the Assembly urged the authorities and the political forces in Bosnia and Herzegovina to engage in a constructive dialogue on the issue of constitutional reform.[3]

22. A reform package drafted taking into account the expert advice of the Venice Commission as well as the proposals agreed to by the main political parties as a result of consultations facilitated by the United States was put to vote in parliament on 26 April 2006. However, the parliament failed to adopt the constitutional reform package. Although this reform package was seen by some as being neither comprehensive nor particularly far-reaching, the Assembly considered that it represented a first attempt by the citizens of Bosnia and Herzegovina and their representatives to take their future in their own hands.

23. Since April 2006, no developments on the constitutional reform front occurred in Bosnia and Herzegovina. The 2006 general election was held according to the existing arrangements and parliaments and governments at all levels were formed according to the existing rules. As a result, democratic institutions in Bosnia and Herzegovina still cannot be qualified as being efficient. In 2007, only 27 pieces of legislation, of the 135 planned at state level, were adopted by parliament. At federation level, only 17 laws were adopted out of 79 planned. The situation was slightly better in the Republika Srpska where the Republika Srpska National Assembly carried out 62% of the planned activities.

24. That being said, on 19 October 2007, some changes to the existing decision-making procedures were imposed on the Bosnia and Herzegovina authorities by decision of the High Representative. It is anticipated that these changes will facilitate decision making, while respecting the right of each constituent people to protect its vital national interest in justified cases: the government will be able to take decisions even if a minority of ministers chooses to be absent. Ministers will still be able to vote in favour or against decisions, but they will have to come to the session to do so.

25. The Rules of Procedure of the Bosnia and Herzegovina Parliamentary Assembly were also amended on 30 November 2007, in accordance with the recommendation of the High Representative. The amendments clarified the interpretation of a number of key constitutional principles and are expected to streamline decision making in parliament.

26. While these recent changes are welcome, the efficient functioning of Bosnia and Herzegovina's democratic institutions cannot be achieved without the implementation of the constitutional reform. The constitutional reform package needs to be put high on the agenda of all political institutions again to create a solid foundation for the implementation of much needed sectoral reforms (for example, the reform of the police) as well as to fulfil the criteria for the closing of the Office of the High Representative and ensure full transfer of functions to domestic institutions.

Georgia

27. The strong system of government in Georgia, which is not accompanied by efficient checks and balances, continues to be a concern of the Assembly. A far more inclusive decision and policy-making process, based on dialogue and a plurality of views, is strongly needed in the country.

28. In Resolution 1603 (2008) the Assembly therefore called upon the authorities to commit themselves to building strong institutions, in particular by creating a responsible and professional state administration and a political culture that seeks broad consensus among the plurality of views. It is hoped that the outcome of the

3. See Resolution 1383 (2004) on the honouring of obligations and commitments by Bosnia and Herzegovina.

parliamentary elections of May 2008, in combination with a revitalised political opposition that emerged from the November 2007 protests, will strengthen the democratic process by creating a more pluralist parliament and by building into the political process the dialogue that so far has been lacking.

29. In December 2006 a series of amendments to the constitution were passed by the Georgian Parliament that aimed to strengthen the separation of powers. Following these amendments, the president no longer has the right to dismiss or appoint judges and he no longer chairs, or is a member, of the High Council of Justice. The amendments also limit the number of times a president may dismiss parliament to two in five years.[4]

30. Further reform of the judiciary was initiated by the Georgian authorities, especially with the aim to guarantee its independence. However, the courts still do not enjoy sufficient public confidence as independent arbiters and are seen as being under the influence of the executive branch of power. The Assembly therefore called upon the Georgian authorities to step up their efforts as regards the reform of the judiciary, in particular with respect to the independence of judges and prosecutors.

Moldova

31. In its Resolution 1572 (2007) on the honouring of obligations and commitments by Moldova, the Assembly noted that the relative political stability established in Moldova after the 2005 parliamentary elections had helped the majority and the opposition to implement key reform projects relating in particular to European integration and enhancement of democratic reforms.

32. The Assembly took note with satisfaction of the impressive results of the parliament's work, including the adoption of a package of laws dealing with the country's commitments to the Council of Europe, such as the revision of the parliamentary rules of procedure in compliance with the recommendations of the Council of Europe, the strengthening of the independence of judges and the autonomy of the judiciary, the improvement of electoral legislation, the further reform of the security services, the reform of the broadcasting sector and the strengthening of local self-government.

33. It noted, however, that the implementation of the adopted legislation was equally important as the adoption of the legislation. It therefore invited the Moldovan authorities to take the necessary steps to make the new legal framework fully operational by adopting all normative acts required for its implementation and by developing the capacity of institutions and staff to apply the new legislation.

Monaco

34. The revision of the Monégasque Constitution in April 2002, amending the 1962 constitution on certain points, was not intended to, and did not, transform the Monégasque constitutional system into a parliamentary system: the Principality of Monaco remains a hereditary and constitutional monarchy in which the Prince is an active head of state and possesses extensive powers that have no counterpart in other European monarchies except perhaps Liechtenstein (see Doc. 11299).

35. Strengthening of the powers of the National Council was the subject of intense negotiation during the accession procedure so that Monaco would fulfil the criterion of "pluralist democracy" within the meaning of the Council of Europe's Statute. In accordance with the Assembly's recommendations, the 2002 constitutional revision strengthened the powers of the National Council with regard to the right to propose private members' bills and the right of amendment, budgetary power and the ratification of certain international treaties. The National Council passes laws and adopts the annual state budget. It cannot overturn the government but, on the other hand, the latter has no power to legislate without a favourable vote in the National Council. However, the Prince has the right to dissolve the National Council and thus to call for new elections. Members of the government are not answerable to the National Council and are not obliged to carry out the political programme for which the Monaco representatives were elected.

36. Since the 2002 constitutional revision did not fulfil the recommendations of the eminent lawyers on a number of important points, the Assembly recommended in Opinion No. 250 (2004) that, within five years of accession, the Monégasque authorities should further broaden the powers of the National Council, in particular as regards supervision of government action, the annual presentation of the governmental programme, the right of legislative initiative and budgetary debate, in the hope that the state institutions would evolve in the course of time.

---

4. The constitution now stipulates that extraordinary presidential and parliamentary elections will automatically be held if the president dismisses the parliament for a third time in five years.

37. The National Council is currently testing the new powers conferred to it by the constitutional revision of 2002. It no longer rubber-stamps governmental decisions, but neither is it a chamber that practises systematic opposition, and it has constantly to feel its way towards a consensus reconciling the wishes of the Prince and those of the national representatives.

38. The National Council has no legal personality and does not possess budgetary independence: it has to request government authorisation to use the funds allocated to it, as well as authorisation on how it may spend them. The government limits the National Council's scope for action and exercises indirect political control over its activities through the control it exercises over its financial resources.

39. In its Resolution 1566 (2007) on the honouring of obligations and commitments by Monaco, the Assembly urged the Monégasque authorities to adopt a new law on the functioning and organisation of the National Council as soon as possible so as to reflect the constitutional changes made in 2002. It expressed hope in this connection that the joint working party on the organisation and functioning of the National Council, set up by the council and the government to enable the two institutions to determine jointly how the rules governing the Assembly's activities can be improved and modernised, would be shortly successful. The Assembly also called on the National Council to review its rules of procedure without delay.

40. In addition, the Assembly recommended that the Monégasque authorities redraw the list of international conventions and treaties in respect of which the National Council must pass a law in accordance with Article 14 of the constitution and meanwhile submit initially to the National Council any draft reservations or declarations to a treaty in respect of which the National Council must pass a ratification law.

Montenegro

41. In line with Assembly Opinion No. 261 (2007) on the accession of Montenegro, adopted on 17 April 2007, to which the Monitoring Committee significantly contributed,[5] Montenegro undertook to adopt a new constitution within a maximum of one year upon accession, in close co-operation with the Venice Commission and in full compliance with international standards. The new constitution should include the seven minimum principles already approved in the declaration of 8 February 2007 signed by the Prime Minister, the Speaker of Parliament and the heads of the political groups represented in the Parliament of the Republic of Montenegro. In line with two of these principles:

> *"the independence of the judiciary must be guaranteed and the imperative of avoiding any decisive role of political institutions in the procedure of appointment and dismissal of judges and prosecutors recognised;*
>
> *the constitution should regulate the status of the armed forces, security forces and intelligence services of Montenegro and the means of parliamentary supervision."*

42. Montenegro undertook to include also in the new constitution, *inter alia*:

> *"a provision maintaining existing laws, unless they are amended through the normal democratic process, in full respect of the principle of legal certainty;*
>
> *provisions defining a state of emergency, how a state of emergency may be declared, the legal effects thereof and supervisory powers of parliament."*

43. Considering that developing the parliament in terms of its representative, legislative and oversight functions is crucial to fulfil the strategic goal of harmonising Montenegrin legislation with European standards and, simultaneously, reinforcing parliamentary practice, the Assembly asked the Montenegrin authorities:

> *"to increase as soon as possible the parliament's budgetary means and its administrative capacity".*

44. The co-rapporteurs of the committee on Montenegro closely follow the process of the implementation of these commitments. They travelled on a fact-finding visit to Montenegro in November 2007 and plan to pay another visit to the country in October 2008. They will make their assessment of the state of implementation of obligations and commitments by Montenegro, including as regards the new constitution, on the basis of the results of their next visit.

---

5. See the opinion by the Monitoring Committee in Doc. 11207. See also the report by the Political Affairs Committee in Doc. 11204 and the opinion by the Committee on Legal Affairs and Human Rights in Doc. 11205.

Serbia

45. The adoption of the legislation foreseen by the law on the implementation of the Constitution of Serbia (adopted in September 2006 and approved by referendum in October 2006) did not progress as well as it should. In particular, the law on the National Assembly of the Republic of Serbia has yet to be adopted. The parliament still functions on the basis of the old rules of procedure of 2005 which do not favour efficient and streamlined parliamentary debates.

46. In their draft report on the honouring of obligations and commitments by Serbia, which was made public by the Monitoring Committee on 18 March 2008 (Document AS/Mon(2008)07 rev.), the co-rapporteurs noted that Serbia's democratic institutions needed to be further strengthened, in particular, with respect to parliamentary democracy. The co-rapporteurs recommended that the position of the parliament should be strengthened both institutionally and materially to enable it to play an increasingly active role in the political process.

47. Moreover, the co-rapporteurs expressed concerns about the strong role of the parliament in judicial appointments, which may result in an undue politicisation of the process and would go against the principle of separation of powers. They urged the Serbian authorities to continue to co-operate with the Council of Europe experts, including the Venice Commission, in order to strengthen guarantees of independence of judges and prosecutors in order to protect them from undue interference from political branches of power.

Russian Federation

48. The separation of powers and a proper system of checks and balances is a main focus of the Assembly's monitoring process. In this respect, the co-rapporteurs, during their last visit to the Russian Federation in April 2008, took note of the steps taken by the authorities to reform the Prosecutor's Office and the judiciary, with a view to bringing them closer to Council of Europe standards. In particular, the co-rapporteurs encouraged the authorities to pursue their efforts aiming at ensuring the execution of domestic court decisions, which could significantly reduce the number of cases lodged against Russia with the European Court of Human Rights. They also welcomed the efforts by the authorities to strengthen regional and local democracy.

49. Nevertheless, a significant number of concerns remain. This was especially clear during the recent elections, where the merging of the state and a political party was noted as a main point of concern. Despite the welcome reforms of the Prosecutor's Office, concerns still remain over its oversight function. In addition, questions with regard to the composition of the Council of the Federation, and with regard to the influence of the executive over the judiciary, still exist.

50. The co-rapporteurs have called for the Russian authorities to ensure that the strong "vertical of power" will be underpinned by strong democratic institutions and an effective system of checks and balances. They reiterated their recommendation to the Russian authorities to seek close co-operation with the Venice Commission of the Council of Europe on these issues.

Ukraine

51. Since Ukraine's accession to the Council of Europe more than eleven years ago, hopes of democratic breakthrough have alternated with serious political stand-offs (see Doc. 11255). Since 1999, the Assembly has held 10 debates related directly or indirectly to the functioning of democratic institutions in Ukraine, the most recent one during its April 2007 part-session following the dissolution of the Parliament of Ukraine by presidential decree after months of political crisis.

52. In its Resolution 1549 (2007), adopted on 19 April 2007, the Assembly considered that the continuing political instability was the result of the systematic failure by the successive Ukrainian governments to establish coherent policies backed by substantial legal administrative and economic reforms. The political reforms that would set "the rules of the game" and enable law-based institutions to guarantee democratic rights and freedoms and promote political competition had not been completed to date. The Assembly stressed that the crisis was also the result of the hasty and incomplete constitutional and political reform of 2004, carried out without holding a comprehensive public debate in the country and taking into account the reservations of the European Commission for Democracy through Law (Venice Commission), which failed to settle the crucial issues of separation of powers and the "imperative mandate" of national deputies.

53. The Assembly recognised the achievements of the orange revolution that had allowed key democratic freedoms, such as freedom of the media and of assembly, freedom of political competition and parliamentary opposition, to take root. However, Ukraine lacked and still lacks today the guarantees built into its democratic institutions that would consolidate those newly acquired freedoms. The Assembly called on the political forces, as a matter of urgency, to resume work on the improvement of the Constitution of Ukraine and the related legislation, in close co-operation with the Venice Commission, in order to finally establish an effective system of checks and balances and bring constitutional provisions into line with European standards.

54. The Assembly deplored that the judicial system of Ukraine has been systematically misused by other branches of power and that top officials did not execute court decisions, a sign of erosion of this democratic institution. Hence, the urgent necessity to carry out a comprehensive judicial reform, including through amendments to the constitution. Also, the authority of the sole body responsible for constitutional justice – the Constitutional Court of Ukraine – should be guaranteed and respected and any form of pressure on the judges investigated and criminally prosecuted.

55. Although a political agreement between President Yushchenko and the then Prime Minister Yanukovych to hold pre-term parliamentary elections on 30 September appeared to put an end to last year's crisis, the inherent flaws in the political system in Ukraine have not been remedied. As the co-rapporteurs noted in their information note on their fact-finding visit to the country in January 2008 (see Document AS/Mon(2008)06), the political environment remained extremely volatile and susceptible to tumbling back into crisis unless a solution was urgently found through an inclusive dialogue between all political forces on constitutional reform.

56. Following the September 2007 pre-term elections and the formation of a new government headed by Yulia Tymoshenko in mid-December 2007, President Yushchenko urged all leading political forces to join efforts and draft a new constitution. To this effect, he set up a National Constitutional Council, composed of representatives of all political forces represented in parliament, judges, human rights organisations, representatives of academia and a number of well-known public figures. A draft constitution was prepared by a group of scholars, which, upon a decision of the Monitoring Committee, was transmitted for opinion to the Venice Commission. The latter should adopt its opinion at its June 2008 meeting.

2.1.2. Elections and electoral reform

Albania

57. In its Resolution 1538 (2007), the Assembly welcomed the fact that the July 2005 elections marked the first peaceful and smooth transfer of power in Albania since the fall of communism and the first parliamentary elections in 1991. The Assembly recalled that the parliamentary elections in Albania on 3 July 2005, although conducted on the basis of an improved electoral code, "complied only partially with international commitments and standards for democratic elections", according to the international observers, including the Assembly's ad hoc committee (Doc. 10664).

58. The Albanian authorities should in particular continue to improve the accuracy of civil registers and voters' lists and develop a uniform system of addresses for buildings; new identity documents should be introduced; the excessive role of political parties in electoral procedures should be limited and the election administration should be reviewed. The Assembly welcomed the political agreement to eliminate tactical voting (so-called "Dushk" strategy) and asked political parties to show serious commitment to accelerating electoral reform on other issues in order to implement the remaining recommendations made by international observers.

59. During their forthcoming visit to Albania in 2008, the co-rapporteurs will examine further progress achieved in this field, in particular as regards the new electoral system which was introduced after changes to the constitution and the Electoral Code, as well as the prospects of completion of the electoral reform in time for the next general elections to be held in 2009.

Armenia

60. The presidential election held in Armenia on 19 February 2008 has been at the origin of the worst political crisis in the country since its accession to the Council of Europe.

61. According to the ad hoc committee of the Assembly which observed this election, although the latter was administered mostly in line with Council of Europe standards, it was marked by a number of violations and shortcomings, the most important of which were:

– unequal campaign conditions for all candidates;

– lack of transparency of the election administration, including of the vote count and tabulation procedures;

– a complaints and appeals process that did not give complainants access to an effective legal remedy;

– a number of cases of electoral fraud were witnessed.

62. These violations and shortcomings did nothing to increase the currently lacking public confidence in the electoral process. As a result, the credibility of the outcome of the election was put into question at last by part of the Armenian population.

63. Immediately after the announcement of the preliminary election results, which gave a clear victory to Prime Minister Mr Serzh Sargsyan from the ruling Republican Party, daily peaceful rallies were organised by the campaign of the first President of Armenia and main opposition presidential candidate, Mr Levon Ter-Petrossyan, who claimed that the election was marred by "widespread falsification and violations" and that in reality he had won the election. A permanent tent camp was put on Freedom Square. Although organised without prior official notification, these protests were tolerated by the authorities for ten days.

64. The exact circumstances which led to the tragic events of 1 March 2008, as well as the manner in which the authorities reacted, including the imposition of the state of emergency in Yerevan from 1 to 20 March 2008 and the alleged excessive use of force by the police, are issues of considerable controversy and should be the subject of a credible, independent and transparent investigation.

65. However, it is clear that to restore public confidence in the electoral process, the latter needs to be thoroughly reformed. In its Resolution 1609 (2008) on the functioning of democratic institutions in Armenia, the Assembly urged the Armenian authorities to carry out the electoral reform with a view to ensuring in particular:

– an impartial election administration that is free from control by any political force;

– a fully transparent election administration of the election process especially with regard to the vote count and tabulation processes;

– a complaints and appeals process that gives electoral stakeholders the fullest possible access to a legal remedy in case of perceived electoral violations;

– an equal playing field in practice for all political forces both during the official campaign period, but also prior to it.

66. Again, the electoral reform is one of the priority reforms which should be the object of an open and constructive dialogue among both the parliamentary and extra-parliamentary forces in Armenia.

67. In order to ensure implementation of Resolution 1609 (2008) in the field of electoral reform, an ad hoc parliamentary committee was set up under the chairmanship of Mr Davit Haryutunyan, Chairman of the Standing Committee on State and Legal Affairs of the National Assembly of Armenia and of the Armenian parliamentary delegation to the Assembly.

Azerbaijan

68. Since the country's accession to the Council of Europe, not a single election held in Azerbaijan has been deemed fully free and fair.

69. The Assembly has therefore attached great importance to the forthcoming presidential elections in October 2008. It has, in particular, urged the authorities of Azerbaijan to amend the provisions of the Electoral Code regarding the composition of the electoral commissions at all levels so as to establish an election administration which enjoys the confidence of the electorate and of all the stakeholders and to further develop the procedure for an efficient handling of election-related complaints and appeals with the assistance of the Venice Commission. Also, the composition of the Central Electoral Commission (currently composed of 16 out of 18 members) should be completed without further delay and the public broadcasting service should ensure equal and unbiased coverage of the campaign for all presidential candidates (see Resolutions 1505 (2006) and 1545 (2007)).

70. In addition to the revision of the Electoral Code, for the 2008 presidential elections fully to meet Council of Europe standards, it should be made clear that violations of the Electoral Code by local authorities will not be tolerated but penalised and that those responsible will be charged and brought to justice. It is regrettable that only a few criminal proceedings were instituted following the November 2005 parliamentary elections, which finally resulted in the imprisonment of only one person and the dismissal of others. More resolute action is needed to discourage future violations. The Assembly has therefore urged the Azerbaijani authorities to pass on a clear message at the highest political level that electoral fraud will not be tolerated in the next presidential elections.

Bosnia and Herzegovina

71. The co-rapporteurs of the Committee on Bosnia and Herzegovina welcomed the changes to the electoral legislation adopted in 2006. Now Bosnia and Herzegovina has a Central Election Commission, the Election Complaints and Appeals Council was abolished, the period of the official campaign in the electronic media was reduced from sixty to thirty days and the threshold for representation was fixed at 3% of the vote. The country has also acquired a system of passive voter registration, which means that every citizen with a valid citizens' identity protection system (CIPS) document should automatically be registered as a voter.

72. Further amendments to the electoral legislation are being discussed at the moment in view of the next local elections to be held in October 2008. The Venice Commission is providing assistance.

Georgia

73. On 5 January 2008, extraordinary presidential elections were held in Georgia. These early elections were called in a bid to resolve the political crisis that erupted in the country after the declaration of the state of emergency in Georgia on 7 November 2007, following several days of tense political protest in Tbilisi.

74. According to the ad hoc committee of the Assembly that observed this election, it was the first genuinely competitive election in Georgia since its independence and was in essence consistent with most Council of Europe commitments and standards for democratic elections. However, the ad hoc committee also noted that the shortcomings noticed during this election formed significant challenges for the Georgian authorities that needed to be urgently addressed.

75. In addition to the presidential election, a non-binding referendum was organised in which the Georgian public was asked whether they wished to have the forthcoming parliamentary elections in spring 2008, as demanded by the opposition, or in autumn 2008 as foreseen in the constitution. In this non-binding referendum, a large majority of voters – approximately 80% – favoured holding parliamentary elections in spring 2008.

76. In its Resolution 1603 (2008), the Assembly urged the Georgian authorities to fully investigate the violations noted during the presidential election and to bring any possible perpetrators to justice. Moreover, the Assembly called upon the Georgian authorities to ensure that the forthcoming parliamentary elections would be free and fair and fully in line with Council of Europe standards and, to that extent, guarantee, *inter alia*, an effective electoral complaints procedure and ensure the impartiality of the courts in this process; ensure a balanced campaign environment for all contestants, including equitable media access; ensure the clear separation between government structures and election administration; continue the efforts to improve the voters' list and to cancel election day registration of voters. In addition, the Assembly called upon the Georgian authorities to adopt amendments to the constitution to lower the electoral threshold from 7% to 5% and to transform the majoritarian component of the election system into a system based fully on proportional representation.

77. In the aftermath of the state of emergency in Georgia, a dialogue was initiated between the ruling and opposition parties to resolve the political crisis in Georgia. This dialogue led to an agreement to reform the electoral system. As part of this reform, it was originally agreed to change the electoral system for the 50 majoritarian seats in parliament from a first-past-the-post system to a system of regional proportional lists. However, during the discussion on the constitutional amendments in parliament, the amendments were changed to such an extent that, in the end, not only the first-past-the-post system was maintained for the majoritarian seats, but also the number of majoritarian seats was increased from 50 to 75, at the cost of 25 proportional seats.[6]

6. See Document AS/Mon(2008)14 rev2.

78. On 21 March 2008, the parliament adopted amendments to the Election Code, also to bring it in line with the amended constitution. The amendments to the Election Code, *inter alia*, lowered the electoral threshold to 5%, abolished same day registration of votes, introduced party representation on the district election commissions and simplified the electoral complaints procedure. Parliamentary elections were called for 21 May 2008. These elections were observed by an ad hoc committee from the Assembly.

79. The failure to reform the electoral system in line with the agreement between the ruling party and opposition has not been conducive to reducing the highly polarised political climate in Georgia. In addition, also as a result of the cycles of amendments to the Election Code, the latter contains inconsistencies and ambiguities and is open to varying interpretation. Further electoral reform should therefore be initiated immediately after the elections, when the electoral stakes are less high. These reforms should be implemented in close co-operation with the Venice Commission of the Council of Europe and take into account the recommendations made by the Assembly.

Moldova

80. In their 2007 report on the honouring of obligations and commitments by Moldova (Doc. 11374), the corapporteurs of the Committee on Moldova welcomed the changes made to the Electoral Code in 2005. In particular, the threshold for party lists was lowered to 4% for lists presented by individual political parties and 8% for coalitions of political parties. Moreover, the composition of the Central Electoral Commission (CEC) and lower level election commissions was changed. Some 5 out of 9 members of the CEC are now appointed by the opposition parties, a formula which provides for a politically inclusive composition. However, as the Congress observers have pointed out on the occasion of local election observations, several of the so-called opposition parties are actually supporting the government. The Venice Commission and the Office for Democratic Institutions and Human Rights (ODIHR) insisted, therefore, on the need to implement this formula in good faith, so that the composition of electoral commissions as well as the appointments to managerial positions guarantees inclusiveness and impartiality in practice.

81. That being said, further improvements to the electoral legislation need to be made. In particular, bearing in mind that the Moldovan electoral system consists of one single constituency covering the whole country, with a proportional distribution of seats, the representation of national minority-based parties in the parliament – national minorities make up about 20% of Moldova's population – remains problematic. Further amendments would be needed in order to clarify the decision-making power within the CEC and provide better guaranties for dismissal of CEC members for "serious violations". The provisions for cancellation of candidates' registration should abide by the principle of presumption of innocence; the provisions regarding the right to campaign and right to free speech and expression are still unclear or too restrictive. More transparency is needed in the publication of the polling stations' results, etc.

82. The Monitoring Committee was, moreover, alarmed by the recent legislative developments with regard to the Electoral Code. In April 2008, the Moldovan Parliament amended the Electoral Code again to raise the threshold for party lists up to 6%. Moreover, the establishment of "electoral blocs" – joint lists submitted by a collation of political parties – was prohibited. These measures have raised concern and the committee decided at short notice to hold an exchange of views with the Moldovan delegation on 15 April. The electoral legislation should not be changed every two or three years according to political imperatives. It should allow a wide spectrum of political forces to participate in the political process to help build genuinely pluralistic democratic institutions. The co-rapporteurs will closely examine the recent amendments as well as the reasons behind the recent legislative developments during the observation of the preparation of the forthcoming parliamentary election to be held in spring 2009.

83. In 2007 local elections were also held in Moldova at municipal and district level. In its Resolution 1572 (2007), the Assembly noted that these elections were generally considered to be well administered and that the voters were given a real choice. The Assembly was concerned, however, by the fact that some aspects of the electoral process still fall short of European standards for democratic elections. In particular, the international observation mission noted intimidation and pressure on candidates, lack of pluralism in the media coverage of the electoral campaign and inability of the media to provide diverse information. The Assembly also observed an inappropriate application of some election procedures, the undermining of the secrecy of the vote, and a complicated procedure for the consideration of complaints, which resulted in a delay in publishing the results of the vote. These problems are recurrent in the Moldovan electoral practice and cannot be tolerated in a Council of Europe member state aspiring to build a pluralist democratic society based on the rule of law.

84. The Assembly urged the Moldovan authorities to carefully study and take into account the conclusions of the international observers of the local elections of June 2007 with a view to eliminating all shortcomings with respect to European standards for democratic elections in order to conduct free, fair and democratic parliamentary elections in 2009.

Monaco

85. On the Assembly's insistence, Monégasque electoral law was amended in April 2002. In accordance also with the revised constitution, the number of seats in the National Council has been raised from 18 to 24, a third of which are filled by proportional voting. The voting age has been lowered from 21 to 18 and the previous five-year period for naturalised Monégasques to be able to vote has been abolished (see Doc. 11299). However, Monaco has not yet ratified the first Additional Protocol to the European Convention on Human Rights (ECHR) that safeguards, *inter alia*, the right to free elections, in line with its accession commitment.

86. Elections to the National Council were held on 19 February 2008 and were observed by an ad hoc committee of the Assembly (Doc. 11535). The results of the ballot produced a parliament composed of members of two of the three lists that ran in the elections, with Union Pour Monaco (UPM) obtaining 21 out of the 24 seats and Rassemblement et Enjeux pour Monaco (REPM) getting three seats.

87. The ad hoc committee agreed that, given the particular situation of Monaco, the election was largely in line with Council of Europe electoral standards. The Electoral Commission conducted its work in an impartial and professional manner, displaying great transparency and efficiency. The results of the elections were indicative of massive support by the Monégasques for the reforms conducted by the state. This should encourage the authorities to continue working towards full implementation of Monaco's commitments vis-à-vis the Council of Europe, including the ratification of the first Additional Protocol to the ECHR.

88. While no problems have been reported concerning media behaviour, the ad hoc committee recommended that the Monégasque authorities consider introducing new media legislation that would, *inter alia*, specifically address media behaviour during the electoral campaign. It also reiterated the Assembly recommendation inviting the Monégasque authorities to reflect on the need to adopt a law on political parties, not least with a view to ensuring the transparency of party funding.

Montenegro

89. In Opinion No. 261 (2007)[7] on the accession of Montenegro, the Assembly asked the Montenegrin authorities:

> *"to revise the electoral law and, in particular, the provision concerning the system for allocating seats to political party lists, to ensure that it does not mislead voters;".*

90. Montenegro held a presidential election on 6 April 2008. In its report, the ad hoc committee of the Bureau of the Assembly on the observation of the presidential election in Montenegro (Doc. 11567) concluded that the election was largely conducted in line with European standards for free elections. It made a number of recommendations to the authorities concerning further improvements to the electoral legislation and practice. In particular, the ad hoc committee concluded that:

– the authority of the state electoral commission (SEC) should be expanded to enable it to have monitoring powers over all aspects of the campaign;

– the separation between the state and political parties/candidates still needs substantial improvement before it complies with requirements of the Council of Europe's Code of Good Practice in Electoral Matters;

– additional legislation is needed to cover all aspects of campaign funding, including financial disclosure and limits on spending and the protection of "whistle-blowers";

– the candidate nomination process should be improved. The current requirement for signature collection should be brought in line with Venice Commission recommendations (maximum 1% of the number of voters). Steps should also be taken to minimise the risk of compromising the principle of secrecy in the process of signature collection;

---

7. See the opinion by the Monitoring Committee in Doc. 11207. See also the report by the Political Affairs Committee in Doc. 11204 and the opinion by the Committee on Legal Affairs and Human Rights in Doc. 11205.

– the entitlement to vote in Montenegro should be settled and the voter register revised in time for the parliamentary elections in 2009;

– laws on electoral bribery should be strengthened to make attempted bribery and soliciting bribes criminal offences, as existing law only criminalises the actual giving and taking of bribes;

– while the Montenegrin electorate has demonstrated that it is well educated in electoral matters, steps could usefully be taken to run voter awareness programmes in the future.

Russian Federation

91. Parliamentary elections were held in the Russian Federation on 2 December 2007, which were observed by an ad hoc committee of the Assembly. In its report, the ad hoc committee (Doc. 11473) concluded that the elections had been free but not fair and failed to meet many Council of Europe standards for democratic elections. While significant technical improvements were noted, the overall atmosphere, which limited political competition, the abuse of administrative resources and a biased media coverage that favoured the ruling party, meant that there was no level playing field in these elections. In addition, the ad hoc committee expressed its concern about the merging of state and ruling party during these elections.

92. The electoral legislation underwent several changes after the previous parliamentary elections in 2003. The electoral system was changed to a fully proportional system in a single nationwide constituency. The threshold was raised from 5% to 7% and the formation of electoral blocs was prohibited. Moreover, an imperative mandate for deputies was introduced. Parties not represented in the Duma must now either pay a deposit of 60 million roubles or collect 200000 supporting signatures, of which no more than 10 000 signatures can come from one region. The ad hoc committee considered that the cumulative effect of these changes to the electoral legislation hindered political pluralism and made the entry of new and small parties in these elections difficult if not prohibitive.

93. On 2 March 2008, presidential elections were organised in the Russian Federation. In its report (Doc. 11536), the ad hoc committee of the Assembly that observed this election concluded that the election reflected the will of the electorate whose democratic potential was, however, not tapped. The fact that one of the candidates was actively supported by the outgoing president – who enjoyed very strong approval ratings and support among the population – meant that the outcome of the election was clear from the outset and turned its character into a plebiscite on the performance of the outgoing president.

94. Many of the same flaws that were noted during the Duma elections in December 2007, including strongly biased media coverage of the campaign, were repeated during the presidential election. In addition, the registration process for independent candidates was almost prohibitive, raising questions with regard to the degree of how free this election was.

95. In this respect, the ad hoc committee welcomed in its report the apparent willingness of the CEC, as well as of the Russian delegation to the Parliamentary Assembly, to evaluate the existing legal framework for elections in the light of the experiences during the 2007 Duma and the 2008 presidential elections.

96. In an unprecedented development, the Russian authorities limited both the period that international observers could observe the elections, as well as the number of observers. These limitations were not conducive to election observation, as a result of which a number of organisations, such as the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR), decided not to observe these elections. Given the geographical expanse of the country, as well as its status of a country monitored by the Assembly, such limitations on observers do not seem appropriate.

Serbia

97. The co-rapporteurs of the Committee on Serbia noted in their draft report (AS/Mon(2008)07 rev.) that Serbia's electoral legislation does not fully meet European standards. According to the experts of the Venice Commission and OSCE/ODIHR, the law on the election of the members of parliament raises a number of problematic points, especially with regard to the composition of electoral lists and allocation of mandates.

98. With respect to the latter problem, firstly, the law does not define exactly how the 5% threshold for electoral lists to access apportionment of the mandate is calculated. Secondly, the election law allows parties to arbitrarily choose the candidates from their lists to become members of parliament after the election, instead of determining the order of candidates beforehand. In the view of the Venice Commission and of the OSCE/ODIHR, "this limits the transparency of the system and gives political parties a disproportionately

strong position vis-à-vis candidates".[8] Seen together with the constitutional provision on imperative mandate of the members of parliament (see section iii below), this provision constitutes a serious violation of European standards and a threat to the good functioning of democratic institutions.

99. Virtually the same procedure of allocation of mandates applies to the allocation of seats in municipal assemblies.[9] Although this procedure is slightly better than the system of allocation of mandates at the National Assembly, it undermines transparency and disproportionately increases the influence of political parties on politics at local level.

100. Besides, elections are generally well administered in Serbia, as was shown by the recent presidential and parliamentary elections held respectively in February and May 2008.

101. With regard to the presidential election, the Assembly Election Assessment Mission considered that the second round of voting in Serbia's presidential election was conducted in line with Council of Europe commitments for democratic elections (Doc. 11534). However, some problems relating to the legislative framework and technicalities of the electoral process were detected (for example, lack of legislative provisions on the role of domestic and foreign non-partisan observers and inadequacy of voting screens). The Assembly called upon the Serbian authorities to eliminate these at the earliest opportunity.

102. The parliamentary election of 11 May was held following resignation of the government on 10 March 2008. The Assembly observers concluded that the election was conducted in an overall professional manner, allowing the country's voters to choose freely among a wide range of political options. They expressed concerns, however, about incidents of threats against leading politicians' lives. Moreover, the observers urged the new parliament to close remaining voids in the legal framework and address long-standing recommendations, such as removing provisions permitting parties to allocate mandates in disregard of the order of the candidates' lists (see press release of 12 May 2008).

Ukraine

103. Pre-term parliamentary elections were held in Ukraine on 30 September 2007 following months of political crisis in the country which culminated in the dissolution of the parliament by presidential decree in April 2007. The ad hoc committee of the Assembly which observed these elections concluded that they were conducted mostly in line with Council of Europe commitments and standards for democratic elections and confirmed the positive trend with regard to the organisation of elections in Ukraine that started in 2006 (see Doc. 11469).

104. However, amendments adopted in June 2007 to the legal framework for elections were considered to be "a step backwards over previous legislation and to run counter to Council of Europe standards". In particular, the new provisions in the law that allow citizens who travel abroad in the period before the elections to be removed from the voters' lists limit unduly the right to vote in contradiction of Council of Europe standards. In addition, these provisions are discriminatory in their implementation and raise concerns with regard to lack of transparency and invasion of the privacy of the voters. These provisions should therefore be removed from the law.

105. Also, for the ad hoc committee, the poor quality of the voters' lists negatively affected the September 2007 elections and raised concern. It was partly the consequence of the amendments to the legal framework that resulted from the political agreement on 27 May 2007. The Law on the State Register of Voters of Ukraine came into force on 1 October 2007, the day after the elections. The centralised and computerised register of voters, linked to the civil registry, which is foreseen in this law, will to a large extent address the problems encountered with the voters' list during these elections, if implemented fully and in a timely manner. The ad hoc committee therefore strongly recommended to the Ukrainian authorities not to delay the implementation of this law and start immediately with the compilation of the central voters' register, in order for it to be finalised and tested before the next elections take place.

106. The abolition of absentee voting for extraordinary elections disenfranchises a significant number of people who cannot be at the place where they are registered to vote on election day. The provisions for absentee voting as implemented during the 2006 parliamentary elections, and which remain valid for ordinary

8. CDL-AD(2006)013, p. 12.
9. Except that one third of the mandates are allocated to the candidates according to their sequence on the list, while the allocation of remaining mandates is left to the discretion of the political party, political organisation or group of citizens that had submitted the list.

elections, largely addressed the vulnerabilities of the absentee voting arrangements to electoral fraud. The ad hoc committee therefore recommended that absentee voting be reintroduced for extraordinary elections, with the same safeguards as for ordinary elections.

107. While not generating a problem at these elections, the 50% minimum turnout requirement for extraordinary elections to be valid, potentially allows for election boycotts and cycles of failed elections. The ad hoc committee therefore recommended to the newly elected Verkhovna Rada to reconsider this requirement. It also reiterated the longstanding recommendation of the Assembly, as well as of the Venice Commission of the Council of Europe, that the Verkhovna Rada adopt a single unified election code.

108. Deep concern was expressed by the politicisation of the Constitutional Court as evidenced by its unwillingness, or inability, to decide on important election related complaints in a timely fashion. This gives extra weight to the recommendations of the Assembly for the reform of the judiciary with a view to ensuring its complete independence from political and other interests.

109. The ad hoc committee reiterated Assembly calls for reform of the election system itself (see also Resolution 1549, paragraph 12). The election system should allow for better regional representation and more influence of the voters over who will represent them in parliament than is possible under the current closed list system with one nationwide constituency. A proportional multiconstituency system on the basis of open party lists was recommended as the system that would best serve the needs of the Ukrainian people. The Assembly reaffirmed its readiness to assist Ukraine with the required constitutional and electoral reforms.

2.1.3. Political parties and their financing

Azerbaijan

110. At present, political groups in Azerbaijan must have at least 20% of the vote to form factions. In other words, no less than 25 MPS (out of a total of 125) are required for this purpose. This is an astonishingly high percentage, especially if we consider that in most Council of Europe member states this figure varies between 3% and 5%. Therefore, the Assembly invited the Parliament of Azerbaijan to consider significantly lowering this percentage through a revision of its internal rules, if need be with Council of Europe assistance or in the framework of the Assembly's parliamentary co-operation programme. Such a measure would facilitate genuine democratic debate within the parliament, improve the quality of debates and thus strengthen its role.

Bosnia and Herzegovina

111. A law on the financing of political parties is currently being prepared. At its 74th Plenary Session, the Venice Commission adopted an opinion on this law. Among other things, the opinion focuses on the issues of use of externally donated money by political parties, the barring of political parties from elections, as well as the acceptable range of fines for violations of the law. The corapporteurs will take this opinion into account in the further stages of the monitoring process.

Moldova

112. In the course of 2007, a draft law on political parties was prepared and submitted to the Venice Commission for opinion. The new law stipulates that, besides donations and membership dues, the parties will also benefit from 0.05% of the state budget income. One half of the sum is to be distributed to the parties in proportion to the number of mandates obtained in the next parliamentary elections. The other half of the sum is to be distributed to the parties according to the number of votes obtained in the local elections. The parties cannot be financed from abroad, by state-owned enterprises and from anonymous and confidential donations.

113. While in general the Venice Commission considered that the draft law would be an important step forward and represented a comprehensive document offering an opportunity to create transparency and accountability in the financing of political parties, it found that it fell short of a number of European standards, in particular, as regards the provision of Article 11, paragraph 2, of the European Convention on Human Rights (ECHR) concerning the restrictions which may be placed on the exercise of the freedom of assembly and association. Namely, the Venice Commission considered that the "double" minimum membership threshold (5000 members nationwide and at least 150 members in half of the *rayons* of Moldova) is potentially restrictive and would be disproportionate and not necessary in a democratic society. The compulsory

submission of updated lists of members to the Ministry of Justice before every upcoming election would also place an unreasonable burden on political parties and would be disproportionate and not necessary in a democratic society.

114. The law was finally adopted by the parliament in December 2007. The final text of the law has not yet been made available to the co-rapporteurs of the committee.

Monaco

115. The Monégasque political scene is radically different from that prevailing in most other European countries. The primary function of a party in the principality is not to attain power and thus enter government through elections expressing the will of the people but only to contribute to the management of the state's affairs whilst permanently seeking a compromise between the will of the Prince and the expectations of Monégasques as represented by the National Council (see Doc. 11299, paragraph 107).

116. Monaco has no law on political parties, which take the form of associations, and no laws on the public funding of political parties or on conflicts of interest. As a consequence, there is no check on election expenses either. Public funding for the parties would be the only way of ensuring the continuance of political debate between elections.

117. In its Resolution 1566 (2007), the Assembly recommended that the Monégasque authorities begin considering the case for a law on political parties, in particular so as to ensure greater transparency in party financing.

Montenegro

118. In Opinion No. 261 (2007)[10] on the accession of Montenegro, the Assembly asked the Montenegrin authorities

> *"to amend the law on conflict of interest in accordance with European standards and adopt and implement laws on political parties and on their financing, ensuring transparency and accountability".*

Serbia

119. In their draft report on the honouring of obligations and commitments by Serbia (AS/Mon(2008)07 rev.), the co-rapporteurs of the Committee on Serbia expressed concerns about the excessive role political parties play in Serbia. As indicated in section ii. above, according to the Serbian Constitution and law, the mandate of members of parliament is of imperative character. This makes the members of parliament dependent on the will of the leadership of the political parties. The electoral arrangements which give the political parties the possibility to allocate mandates arbitrarily and not in the order of the candidates on the list strengthen the concerns about the possibility for the democratically elected citizens' representatives to freely express their views in the political process. Given that the parliament plays an important role in judicial appointments, the excessively strong influence of political parties on the political process raises some concerns about the implementation of the principle of separation of powers in Serbia's institutional set-up.

120. The financing of political parties is regulated by a special law adopted in 2003. While this law contains a number of sound principles, the established measures for supervision and control over political parties are weak: for example, political parties' reports on the financing of the election campaign in January 2007 were mostly incomplete and unsatisfactory.

Russian Federation

121. According to the amended legislation, in order to qualify for registration a political party needs to have at least 50 000 members and at least 500 members in half of the subjects of the Russian Federation and at least 250 in the other half. In order to register for parliamentary elections, parties not represented in the Duma must either pay a deposit of 60 million roubles or collect 200000 supporting signatures of which no more than 10 000 signatures can come from one region. In addition, the formation of electoral blocs is forbidden and campaign financing legislation is extremely complex. According to the ad hoc committee that observed the 2007 Duma elections, these regulations make it extremely difficult, if not prohibitive, for new and small parties to develop and compete effectively in elections.

---

10. See the opinion by the Monitoring Committee in Doc. 11207. See also the report by the Political Affairs Committee in Doc. 11204 and the opinion by the Committee on Legal Affairs and Human Rights in Doc. 11205.

Ukraine

122. In its Resolution 1549 (2007), the Assembly reaffirmed that the recall of people's representatives by the political parties, the so-called "imperative mandate", is unacceptable in a democratic state and runs counter to Council of Europe standards. The relevant provisions in the Constitution of Ukraine should thus be abrogated in line with the recommendations made by the Venice Commission in 2004 and similar provisions should be deleted from ordinary legislation.

123. In its report on the pre-term parliamentary elections of 30 September 2007, the ad hoc committee of the Assembly which observed them expressed concern over the continuing intertwinement at all levels of political and business interests, as it clearly hampered the democratic development of the country. In this respect, the ad hoc committee welcomed the political will expressed by the political parties that were elected into the new parliament to end the complete immunity from criminal prosecution for members of the Verkhovna Rada. It also recommended that proper provisions regarding financial disclosure and transparency of campaign finances for candidates and parties competing in the elections should be adopted.

2.1.4. The fight against corruption

Albania

124. In its Resolution 1538 (2007), the Assembly welcomed the measures taken by the Albanian Government to establish and enforce a zero-tolerance policy in the fight against organised crime, trafficking and corruption. The Assembly recognised the significant results achieved by the government in the fight against organised crime, with charges having been brought against dozens of criminal groups involving hundreds of people. The auditing and controlling authorities had intensified their activity with respect to the use of public funds in public administration.

125. While reforms in public administration to fight corruption and reduce costs are to be welcomed, the Assembly urged the Albanian authorities fully to respect the law on civil service when hiring and dismissing staff. The effectiveness of the public administration should be further strengthened and for this it is also necessary to increase the professionalism of senior civil servants and to put an end to political appointments.

126. The Assembly regretted that efforts to make rapid progress in the fight against corruption had sometimes resulted in some poorly drafted laws, a number of which had been subsequently declared unconstitutional. In the context of its fight against corruption, government and parliament should also ensure full respect for independent and constitutionally guaranteed institutions, such as that of the General Prosecutor and the High Council of Justice.

127. During their forthcoming visit to Albania in 2008, the co-rapporteurs will examine further progress achieved in this field, noting that a new General Prosecutor was appointed in November 2007.

Azerbaijan

128. Despite commendable efforts made by the authorities with Council of Europe assistance, corruption remains a major problem in Azerbaijan affecting all levels of society and threatening the economic, social and political development of the country.[11]

129. Azerbaijan has been a member of the Group of States against Corruption (GRECO) since 1 June 2004 and has ratified both the Civil Law and Criminal Law Conventions on Corruption.

130. GRECO addressed no fewer than 27 recommendations to the Azerbaijani authorities in order to help them improve the efficiency of their fight against corruption. The GRECO report has been analysed by the AntiCorruption Commission under the Council for Management of Public Service and proposals for improving domestic legislation in line with its recommendations have been prepared. Four draft laws have been examined by Council of Europe experts.

11. See Resolution 1545 (2007) on the honouring of obligations and commitments by Azerbaijan, paragraph 7.15 and the first report published by GRECO on Azerbaijan on 23 June 2006, Document GRECO Eval I-II Rep(2005)5E.

131. In its Resolution 1545 (2007) on the honouring of obligations and commitments by Azerbaijan, the Assembly welcomed the fact that the Azerbaijani authorities were preparing a national strategy for increasing transparency and combating corruption, in co-operation with their international partners. It further urged the Azerbaijani authorities to implement the recommendations made by GRECO, improve accordingly domestic legislation and effectively implement adopted measures.

Bosnia and Herzegovina

132. The level of political corruption in Bosnia and Herzegovina is high. Politicians are widely believed by the public to be the most corrupt. Despite the creation in 2005 of a special department in the State Court to deal with corruption cases, this perception has not changed. The authorities at all levels must step up efforts to fight political corruption.

133. Besides, Bosnia and Herzegovina co-operates actively with the Council of Europe's Group of States against Corruption (GRECO). The second round evaluation report on Bosnia and Herzegovina was adopted by GRECO on 8 December 2006.[12] GRECO concluded that Bosnia and Herzegovina was making substantial amendments to its criminal legislation and the organisation of judicial and prosecutorial systems. However, the implementation of the new legal framework requires better coordination between different agencies in detection, investigation and prosecution of corruption. The need for staff training was also highlighted.

134. With regard to public administration, GRECO welcomed the adoption in 2006 of the Strategy for the Fight against Organised Crime and Corruption but noted that its success would depend on the establishment of an independent anti-corruption body responsible for monitoring the strategy.

135. In practical terms, GRECO addressed a number of specific recommendations to the authorities of Bosnia and Herzegovina and requested them to provide a report on the measures taken, by 30 June 2008.

Georgia

136. The fight against corruption has been a stated priority for the Georgian authorities, which has resulted in a significant reduction of, especially small-scale, corruption. However, corruption continues to be a point of concern. In reaction to allegations of top-level political corruption, the President of Georgia announced that a special anti-corruption commission would be set up which would be directly responsible to him and the Speaker of the Parliament.

137. In October 2006, GRECO adopted its final overall assessment report on the first evaluation round of Georgia in which it resolved to close the non-compliance procedure that was initiated in December 2003. In December 2006 GRECO adopted its second round evaluation report on Georgia[13] which contains 14 further recommendations to the Georgian authorities.

138. Georgia ratified the Council of Europe Criminal Law Convention on Corruption (ETS No. 173) in January 2008.

139. In Resolution 1609 (2008) the Assembly called upon the Georgian authorities to pursue its fight against corruption and money laundering and fully implement all recommendations by GRECO and MONEYVAL. In addition, it called on the authorities to step up their efforts aimed at building a culture of ethics of civil service.

Moldova

140. In its Resolution 1572 (2007) on the honouring of obligations and commitments by Moldova, the Assembly called upon the Moldovan authorities to continue to monitor the implementation of the anti-corruption strategy and action plan and, in particular, introduce effective mechanisms and procedures for fighting corruption in public institutions. In fact, the anti-corruption strategy and action plan were adopted in 2004.

141. A revised action plan for the years 2007-09 was adopted by the parliament in 2006. According to the Council of Europe experts who evaluated the implementation of the action plan, the effectiveness of the institutional mechanism of monitoring of the implementation of the action plan is undermined by the heavy structure of the monitoring group, composed of about 50 representatives from different institutions, and by the lack of transparency in the relations and exchange of information between the Co-ordination Council and the

12. GRECO Eval II Rep(2005)8E.
13. GRECO Eval II Rep(2006)2E.

monitoring group. Moreover, the co-rapporteurs noted in their report (Doc. 11374) that, according to some information received, different institutions apply the same legal provisions differently or take arbitrary decisions whenever there are gaps in the legislation.

142. The co-rapporteurs were assured by the authorities that these inconsistencies among the different institutions have now been removed by the recently introduced amendments to the Code of Criminal Procedure. The corapporteurs recommended that these amendments be sent to the Council of Europe for appraisal. They will follow this issue up in the further stages of the monitoring process.

143. Besides, the co-rapporteurs noted in their recent report that several other draft laws were in preparation, such as the code of conduct of civil servants, the draft law on participation and transparency in the decision making of public authorities and a draft law on the conflict of interest. The Venice Commission is involved in the preparation of some of these laws. The co-rapporteurs will follow this up in the further stages of the monitoring process.

144. Finally, it is worth noting that GRECO recently adopted its second evaluation report on Moldova.[14] In its report, GRECO acknowledged the efforts of the country in carrying out reforms in the field of administrative organisation and legislation. At the same time, the report stresses that much remains still to be done and addresses a full set of very specific recommendations.

Monaco

145. The ratification of the Criminal Law Convention on Corruption (ETS No. 173) in March 2007 forms part of a series of reforms decided on by Albert II, whose purpose is to give greater transparency to the management of all bodies receiving public funds in the interests of ethics and clarity. Monaco has thus joined GRECO, which recently carried out its first fact-finding visit to the principality.

146. According to the Monégasque authorities, the offences underlying money laundering are exclusively offences outside the country. Even though statistics show an exponential rise in suspect transaction declarations, the Monégasque authorities do not regard this as causing an increase in money laundering but rather as representing an improved awareness of the need to control it.

147. The Monégasque anti-money-laundering system has a legislative framework which in general meets international standards. In its Resolution 1566 (2007), the Assembly was pleased to note the considerable efforts made by the principality to improve its legal weaponry against money laundering and particularly welcomed the November 2006 law amending Article 218 of the Criminal Code as regards offences underlying money laundering.

Montenegro

148. In Opinion No. 261 (2007)[15] on the accession of Montenegro to the Council of Europe, the Assembly asked the Montenegrin authorities to sign and ratify, within two years of its accession, the Civil Law Convention on Corruption (ETS No. 174), as well as the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191). It also asked them:

> *"to ensure that anti-corruption legislation is urgently adopted, that GRECO's recommendations and conclusions are implemented and that the administrative capacity in the area of anti-corruption is upgraded;".*

Serbia

149. The co-rapporteurs of the Committee on Serbia noted in their draft report on the honouring of obligations and commitments by Serbia (AS/Mon(2008)07 rev.) that several important legislative and practical measures were taken by the Serbian authorities to fight corruption.[16] The implementation of a comprehensive legislative package is co-ordinated within the framework of the National AntiCorruption Strategy adopted in 2005.

---

14. GRECO Eval II Rep(2006)1E.
15. See the opinion by the Monitoring Committee in Doc. 11207. See also the report by the Political Affairs Committee in Doc. 11204 and the opinion by the Committee on Legal Affairs and Human Rights in Doc. 11205.
16. See also Begović, B. and Mijatović, B. (eds.), *Corruption in Serbia Five Years Later*, Centre for Liberal-Democratic Studies, 2007.

150. An action plan on the implementation of the strategy was adopted in 2006. The implementation of the anti-corruption measures progresses smoothly and several new cases involving corruption by civil servants, police and customs officials were opened during 2006. However, the action plan on the fight against corruption lacks clear deadlines, concrete actions and the necessary resources for its implementation.

151. This being said, it is generally acknowledged that "corruption is still widespread and constitutes a serious problem in Serbia".[17] Although the legislation establishes a sound basis for developing anti-corruption policies, it needs to be further improved in several respects. The law on the financing of political parties contains a number of sound principles but measures for supervision and control are weak. The law on the prevention of conflict of interest does not cover all officials who are involved in the decision-making process; there are also problems with its enforcement, as the sanctions foreseen by the law are rather limited. The law on public procurement introduces complex procurement procedures and the role of the public procurement agency is not strong enough. The auditors to the Supreme Audit Institution were only appointed in September 2007. The material and procedural criminal legislation could be further improved, in line with the recommendations of the Council of Europe experts.

152. At institutional level, the fight against corruption is concentrated in the relevant council. It is an advisory body whose mandate is to provide support to the government in the implementation of anti-corruption policies. The council may also make proposals of new legislation, programmes and other activities to fight against corruption.[18] The council has taken a number of sound initiatives to fight against corruption in the past couple of years. It has focused primarily on so-called "political corruption". However, it appears that cases of "administrative corruption", that is, corruption of civil servants, such as corruption in the health sector, judiciary, tax administration and customs, have been somewhat neglected in the work of the council.

153. In order to achieve greater efficiency in investigating and prosecuting criminal acts with elements of corruption and money laundering, the Department for the Fight Against Corruption was established as part of the 2008 yearly plan and programme of the Prosecutor's Office of the Republic of Serbia. The task of the department is to co-ordinate its activities with the District Prosecutor's offices, as well as with other state organs (the Ministry of Internal Affairs, tax police and other inspection services) and, if needed, to take part in the first instance criminal proceedings.

154. To improve co-ordination between different structures responsible for fighting corruption, the Government of Serbia prepared a law on the Anti-Corruption Agency. According to the draft, the future agency will replace the currently existing bodies, that is, the Council for the Fight against Corruption and the Committee for the Prevention of Conflict of Interest. It will also exercise control over the financing of political parties and implement the anticorruption strategy according to the agreed action plan. The agency would also have "normative" functions and be responsible for preparing opinions on laws and by-laws, thus ensuring the detection of "risks of corruption" in draft legislation. This is a welcome initiative.

155. Besides, Serbia actively co-operates with the Council of Europe Group of States against Corruption (GRECO). A detailed reply to GRECO's recommendations was recently sent to the Council of Europe.

Ukraine

156. In its Resolution 1549 (2007), the Assembly urged the Ukrainian authorities to launch the reform of the criminal justice system and law enforcement agencies and to take legislative and practical measures to tackle all forms of corruption, including political corruption.

157. In their information note on their fact-finding visit to Ukraine in January 2008 (Document AS/Mon(2008)06 rev.), the co-rapporteurs regretted that, despite numerous political declarations, there has been no substantial progress in tackling corruption in Ukraine. The main achievement is again limited to the adoption of the policy document – anti-corruption strategy approved by the president in September 2006 ("Concept of the Fight against Corruption in Ukraine. 'On the Road to Integrity'"). The action plan to implement this concept paper was adopted by the government in August 2007 but it appears to be very imprecise in its wording of measures and their deadlines and should therefore be revised by the new government. The anti-corruption legislative package, prepared by the Ministry of Justice and submitted to the parliament by the president, was adopted at its first reading in December 2006 and its final consideration is still pending. The package in particular includes laws on ratification of the UN Convention against Corruption and the Council of Europe Criminal Law Convention on Corruption.

---

17. European Commission's Serbia 2007 Progress Report, SEC(2007)1435, 6 November 2007.
18. GRECO's evaluation report on the Republic of Serbia. Adopted by GRECO at its 29th plenary meeting (Strasbourg, 19-23 June 2006), GRECO Eval I-II Rep(2005)1E revised.

158. In February 2008, the President of Ukraine instructed the Cabinet of Ministers to assign to the Ministry of Justice several additional tasks in the sphere of combating corruption, in particular pertaining to analysis of legislation with further suggestions to eliminate corruption risks, review of draft legal acts as to their corruptness, collection and analysis of statistics and other data concerning anticorruption measures, promoting better public participation in anti-corruption activities, etc. The co-rapporteurs welcomed this initiative and called for its prompt implementation.

159. In October 2007, GRECO adopted its first report on Ukraine covering the first and second evaluation rounds. The report was promptly translated and published by the Ukrainian Ministry of Justice. The co-rapporteurs urged that GRECO recommendations should be implemented by Ukraine without delay.

160. The Ukrainian authorities have declared their intention to set up a new law enforcement agency specialised in investigation of corruption offences. This step would be in line with the provisions of international standards contained in the Council of Europe and UN conventions provided a number of conditions are met, that is, independence of the body from undue influence, its accountability, adequate resources and powers. The draft law on such an agency should be reviewed by international experts.

161. Although most political forces claim that they are in favour of combating corruption, especially at election time, Ukrainians remain sceptical. According to the 2007 Transparency International survey, some 70% of Ukrainians do not believe that the authorities are effective in their struggle against corruption. The same survey found that the majority of the population believe that the judiciary is the most corrupt institution in Ukraine, followed by political parties, parliament, and the Ministry of the Interior. Some 44% of Ukrainians do not believe there will be a breakthrough in the next three years, while 38% said that corruption would increase.

162. efforts in eradicating corruption should therefore be urgently reinforced and include measures not only in the area of repression through effective law enforcement but also in prevention and policy co-ordination. Ukraine needs to introduce urgently several preventive measures, in particular to create a mechanism for verification of assets declarations of public officials and resolution of conflict of interests, adopt new legislation on civil service and provisions on code of ethics, and establish effective procedures for access to public information. There is also a lack of co-ordination with regard to anticorruption policy formulation and implementation. Anticorruption measures should comply with Council of Europe and international standards as well as recommendations of GRECO and the OECD Anti-Corruption Network.

2.1.5. Media pluralism

Albania

163. In its Resolution 1538 (2007), the Assembly welcomed measures taken to increase the transparency of the government's work and supported the ongoing efforts to improve the implementation of laws on access to information and raise citizens' awareness of their rights, including the adoption of the new Code of Ethics for journalists and the establishment of the Council on Media Ethics, as well as the adoption by the government of a policy not to use the existing libel law as a means of intimidating journalists. The Assembly further asked the Albanian authorities to:

– adopt without further delay amendments to the Criminal and Civil Codes to decriminalise libel and reform civil defamation provisions with Council of Europe assistance;

– improve the regulations on the ownership and financing of media outlets;

– review media legislation in accordance with Council of Europe experts' comments;

– ensure that any future draft legislation regarding media reform be thoroughly prepared in a transparent manner following consultation with media representatives;

– complete the change of the Albanian television channel from a state-controlled service into a public broadcasting service.

164. During their forthcoming visit to Albania in 2008, the co-rapporteurs will examine further progress achieved in this field.

Armenia

165. The absence of media pluralism in Armenia has been a long-standing concern of the Assembly and its Monitoring Committee. Although there has so far been a pluralistic and independent print media in Armenia (although with limited circulation and thus importance), the current level of control by the authorities of the electronic media and their regulatory bodies, as well as the absence of a truly independent and pluralist public broadcaster, impede the creation of a pluralistic media environment and further exacerbate the lack of public trust in the political system (see Resolution 1609, paragraph 6.5).

166. Currently, all members of the Public Television and Radio Council are appointed by the President of Armenia, while half the members of the National Television and Radio Commission are appointed by the president and half by the National Assembly. Given the dynamics in the assembly at present, this means de facto that these two bodies are representatives of the ruling political faction.

167. The campaign of the Prime Minister during the last presidential election was consistently shown in a positive fashion and with similar footage by all private media outlets, which gave the impression that specific editorial policies were applied and which raised questions about the editorial independence of the broadcasters. Moreover, the composition of the Public Television and Radio Council and its lack of political independence hinder the pluralism of public service news broadcasts, as was evident from the manner in which the public broadcasters covered the post-election period. During this period, public media gave extensive overage of the views of the authorities but ignored those who raised concerns about the conduct of the February 2008 elections.

168. Therefore, in its Resolution 1609 (2008) on the functioning of democratic institutions in Armenia, the Assembly urged that the independence from any political interest of both the National Television and Radio Commission and the Public Television and Radio Council must be guaranteed. Also, the composition of these bodies should be revised in order to ensure that they are truly representative of the Armenian society, in line with recommendations made by the Venice Commission and Council of Europe experts. Apart from reforming legislation, the authorities should take steps to ensure freedom and pluralism on a daily basis of public television and radio. Moreover, harassment by the tax authorities of opposition electronic and printed media outlets, which has been noted during the last months, must be stopped.

Azerbaijan

169. The absence of media pluralism has been one of the major concerns of the Assembly as regards Azerbaijan since the country's accession. In its Resolution 1545 (2007) on the honouring of obligations and commitments by Azerbaijan, the Assembly regretted the fact that, instead of improving, the general environment for the independent media in Azerbaijan kept deteriorating.

170. In 2007, there were more than 100 cases in which media representatives critical of the government were taken to court. This indicator is 10 times higher than in 2005. Some nine journalists were sentenced and imprisoned. Six of them were released following the presidential decree of 23 December 2007. However, the two Zahidov brothers (Zakit and Ganimat) and Mr Eynulla Fatullayev, that is, the three journalists associated with the most vocal opposition newspapers, did not benefit from it and are still imprisoned despite repeated calls for their release by the Assembly and other international, as well as domestic, human rights defenders (see Document AS/Mon(2008)10 rev.).

171. Since the economy is monopolised, the lack of free market advertising in the newspapers hinders the development of a free and pluralist press in the country.

172. As regards electronic media pluralism, Azerbaijan is committed to transforming the national television channel into a public channel managed by an independent administrative board. Council of Europe experts welcomed a number of progressive provisions in a draft law on television and radio broadcasting. They criticised, however, the extensive state intervention, including the state ordering special programmes or sponsoring broadcasting. Also, the funding of the Broadcasting Council comes directly from the state budget, which leaves the council open to direct political pressure by the government. According to media representatives and human rights defenders, the electronic media are currently controlled by the Broadcasting Council, which also considers it its duty to control the information available on the Internet.

173. As regards in particular the electoral campaign, the Electoral Code of Azerbaijan provides that political parties are entitled to free broadcast time and print space, under equal conditions in the state-funded media. However, no precise regulations provide for the allocation of time to candidates on private channels.

Bosnia and Herzegovina

174. Bosnia and Herzegovina has one of the most advanced self-regulatory mechanisms in Europe. The Communications Regulatory Authority (CRA) is responsible for licensing and regulating broadcasting and telecommunications, while the Press Council, a voluntary and self-regulatory body, deals with complaints about the print press. Complaints about broadcasting are sent to the CRA. All citizens, including officials, have the right to lodge a complaint. This complaints mechanism is widely used by citizens, institutions, organisations, public officials and political parties.[19]

175. Currently, Bosnia and Herzegovina has three public broadcasters – BHRT (state level), RTFBiH (Federation of Bosnia and Herzegovina), RTRS (Republika Srpska) – and three main commercial broadcasters – OBN, TV Pink BiH, and Mreza Plus.

176. The 2003 EU feasibility study outlining the conditions Bosnia and Herzegovina would have to meet in order to enter into negotiations with the European Union on a Stabilisation and Association Agreement (SAA) required Bosnia and Herzegovina to make significant progress in a number of areas, including broadcasting legislation. In particular, one of the requirements was the establishment of a unified public service broadcasting system with state-level management. For this purpose, four laws have to be adopted but only three of them have been passed to date: the Law on the Public Broadcasting System of Bosnia and Herzegovina, the Law on the State-wide Public Service Broadcaster of Bosnia and Herzegovina and the Law on the Entity Public Service Broadcaster of the Republika Srpska. The absence of the fourth law, namely the Law on the Entity Public Service Broadcaster of the Federation of Bosnia and Herzegovina (RTFBiH), continues to block the completion of this new public broadcasting system.

177. In July 2007, the federation parliament adopted a revised version of the Law on the Entity Public Service Broadcaster of the Federation of Bosnia and Herzegovina taking into account the decision of the federation Constitutional Court of 16 July 2006 but the Croat caucus again invoked the vital national interest. Following the failure of the Harmonisation Committee of both houses of the federation parliament to come to an agreement, the matter is now again pending before the federation's Constitutional Court.

178. This is a very unfortunate development as the delay in the reform of the public broadcasting system in Bosnia and Herzegovina is hampering the SAA process. During their fact-finding visits, the co-rapporteurs on Bosnia and Herzegovina asked the Bosnia and Herzegovina authorities to take appropriate measures to unblock the situation and complete the broadcasting reform.

Georgia

179. Georgia has a comprehensive legal framework to protect freedom of expression and to promote media pluralism. The Law on Freedom of Speech and Expression, which prohibits censorship, protects journalist from undue pressure and protects the confidentiality of journalistic sources is often considered as an example for the region.

180. The events in November 2007, when two media outlets were temporarily closed by the authorities, and the subsequent declaration of a state of emergency, affected the media environment and its pluralism, with some journalists seemingly more willing – at least temporarily – to apply self-censorship than before.

181. A draft code of ethics for broadcasters led to criticism from journalists and was denounced as an attempt by the authorities to control the broadcast media. Its adoption was subsequently postponed by the National Commission on Communications. Council of Europe experts are currently working with the authorities on a revised draft code of ethics for broadcasters.

182. Following criticism of the manner in which the Georgian public broadcaster had covered the presidential election in January 2008, the authorities started a dialogue with the opposition on oversight of the public broadcaster. As a result, a new board of trustees for the public broadcaster was elected by parliament, which is composed of representatives from both the opposition and authorities. A new general director for the public broadcaster was subsequently appointed by the board of trustees.

19. See the special report by Miklos Haraszti, the OSCE Special Representative, on the freedom of the media on "The State of Media Freedom in Bosnia-Herzegovina: the Public Service Broadcasting", dated 29 March 2007.

Montenegro

183. Considering that the independence of state media in Montenegro needs to be ensured more effectively, including from a financial point of view, and political interference in their activity must be stopped, the Assembly asked the Montenegrin authorities in Opinion No. 261 (2007)[20] (paragraphs 19.3.17 and 18) on the accession of Montenegro:

> *"to speed up reforms concerning the media in order to safeguard their independence and to ensure the implementation of the law on access to public information;*
>
> *to provide the public service broadcasting system with the financial means to enable it to perform its functions;".*

Moldova

184. In its Resolution 1572 (2007) on the honouring of obligations and commitments by Moldova, the Assembly urged the Moldovan authorities to "strengthen all the necessary guarantees to ensure the respect of freedom of expression as defined in Article 10 of the European Convention on Human Rights and in line with the case law of the European Court of Human Rights, and in particular to ensure proper implementation of the new broadcasting legislation to promote freedom and pluralism of the mass media within the framework of a genuine public broad casting service, as defined in Assembly Recommendation 1641 (2004) on public service broadcasting".

185. In their report (Doc. 11374), the co-rapporteurs expressed concerns about the lack of freedom of the media in Moldova and the continued interference of the authorities with the work of the media outlets and broadcasters. To give but two examples, the monitoring of public broadcasters Radio Moldova and TV Moldova 1 by the Coordination Council of the Audiovisual (national regulatory authority) throughout the electoral campaign for the 2007 local elections showed that the information which was provided to the public was incomplete and partial; the two national newspapers *Moldova Suverana* and *Nezavisimaya Moldova*, which had received substantial subsidies from the state budget at the end of 2006, did not provide impartial information and clearly favoured the candidate of the Communist Party for the post of the Mayor of Chişinău.

186. Although the newly adopted Audiovisual Code provides a sound basis for reforming the media sector further and strengthening media pluralism, its implementation is not going as well as it should. The authorities should step up their efforts to complete audiovisual reform, especially with regard to the transformation of Teleradio Moldova into a genuine public service broadcaster. This will greatly contribute to strengthening Moldova's democratic institutions, especially in the context of the forthcoming parliamentary election to be held in spring 2009.

Monaco

187. In a country as small as Monaco it is clearly difficult to ensure true pluralism in the area of the media: it is simply not cost-effective (see Doc. 11299).

188. Access to information seems to be a problem as the government still appears to confuse communication and information. The role of the press centre, a government service, comes in for much criticism. The Council of Europe could advise on the definition of a new policy to facilitate and clarify access to information.

189. The Law on Freedom of the Media, adopted in July 2005, appears overall to satisfy the profession particularly because it safeguards the sacred principle of protecting journalists' sources. However, the law contains some problematic provisions, from the point of view of Article 10 of the European Convention on Human Rights, as interpreted by the case law of the European Court of Human Rights, for example because of the number of exceptions to *exceptio veritatis* in libel cases or the excessive penalty of up to two years' imprisonment, whereas everywhere else in Europe the trend is to decriminalise libel or the spreading of false rumours.

---

20. See the opinion by the Monitoring Committee in Doc. 11207. See also the report by the Political Affairs Committee in Doc. 11204 and the opinion by the Committee on Legal Affairs and Human Rights in Doc. 11205.

Russian Federation

190. Freedom of the media and media pluralism continues to be a point of concern. In its statement on 28 June 2007, the Monitoring Committee regretted the reports of harassment of the media and expressed its concern that all national electronic media are under de facto state control. Moreover, the reports of the ad hoc committees that observed the parliamentary and presidential elections in Russia underlined the general bias in the national media in favour of the authorities and lamented the absence of a truly independent and impartial public broadcaster.

Serbia

191. The co-rapporteurs of the Committee on Serbia stressed in their draft report on the honouring of obligations and commitments by Serbia (AS/Mon(2008)7 rev.) that, although Serbia's media context is relatively diverse in terms of the number of printed and electronic mass media, there are serious concerns about the lack of pluralism and the monopolisation of mass media by political groups and businessmen. According to the Independent Journalists'Association of Serbia (NUNS), "today's mainstream news media in Serbia are controlled by Milošević's people".[21] This was shown by a survey recently conducted by NUNS. Although the most prominent media are owned by "local businessmen and tycoons", the state influence in media still remains very high. According to the survey, there are only two completely foreign-owned media outlets in Serbia (Blic and 24 casa, owned by Ringier, Switzerland, and TV Fox, owned by American News Corporation).

192. The co-rapporteurs strongly encouraged the Serbian authorities to take appropriate measures to increase the pluralism of the media, in particular by encouraging the privatisation of existing media outlets and establishment of new ones.

193. The work of the National Regulatory Authority – the Republic Broadcasting Agency – could also be improved in several respects. In particular, transparency in the process of allocation of frequencies to broadcasters needs to be enhanced.

Ukraine

194. In their information note on their fact-finding visit to Ukraine in January 2008 (Document AS/Mon(2008)06 rev.), the co-rapporteurs regretted that no progress whatsoever has been achieved in transforming state television and radio stations into public broadcasters and in privatising state-owned/controlled print media outlets. This leaves Ukraine with an anachronism unacceptable for a democratic state.

195. A new initiative to finally launch the process of setting up a public broadcasting system was announced in February 2008 by the president who instructed the government to prepare relevant proposals to be discussed at the National Security and Defence Council. Although the latter does not look like a suitable venue for consideration of this topic, the co-rapporteurs expressed hope that the decision to transform state television and radio companies into genuine public broadcasters, in line with Council of Europe standards, would soon be made and realised. The creation of a functioning public broadcasting system is one of the conditions for lifting the monitoring procedure with regard to Ukraine.

196. They also called on the Cabinet of Ministers to resubmit as soon as possible a draft law on privatisation of state/municipal-owned or controlled press and support adoption by the parliament of the law on transparency of media ownership at its final reading. It is also recommended that Ukraine accedes to the European Convention on Transfrontier Television without further delay.

2.1.6. Local and regional self-government

Albania

197. In its Resolution 1538 (2007), the Assembly welcomed the measures taken by the Albanian Government to implement the recommendations made by the Congress of Local and Regional Authorities of the Council of Europe, such as the transfer to local government of responsibility for the collection and administration of taxes for small businesses, the administration of sewage systems and water supplies, etc.

21. Padejski, Đ. "Miloševićev medijski amanet", in *Dosije o medijima*.

198. The Assembly urged the Albanian authorities to implement the recommendations made by the Congress in its Recommendation 201 (2006), in particular as regards: the current state of local and regional self-government and their compliance with the European Charter of Local Self-Government (ETS No. 122); regional selfgovernment; the financial autonomy of local and regional authorities; the administrative supervision of local authorities; and the electoral system and forthcoming local elections.

199. During their forthcoming visit to Albania in 2008, the co-rapporteurs will examine further progress achieved in this field, in particular after the local elections held in February 2007 and amendments to the relevant legislation.

Azerbaijan

200. Municipalities are recent institutions in Azerbaijan: they started working as elected bodies only in 1999 (Doc. 11226). Besides municipalities, local executive authorities are appointed by the President of Azerbaijan to exercise central government powers as decentralised bodies. Baku, as well as other large cities, still lacks an elected (directly or indirectly) mayor at city level.

201. local elections were held in Azerbaijan on 6 October 2006 and observed by the Congress of Local and Regional Authorities of the Council of Europe. They were marked by a low turnout (33%) and the lack of an active electoral campaign. These elements reflect the small degree of priority conferred by the government and political forces to the real practice of local and regional democracy.

202. Assembly, in its Resolution 1545 (2007) on the honouring of obligations and commitments by Azerbaijan, adopted on 16 April 2007 on the basis of a report by the Monitoring Committee (Doc. 11226), urged the Azerbaijani authorities to implement the recommendations made by the Congress in order to bring the relevant legislation and practice in line with the constitution and the European Charter of Local Self-Government (ETS No. 122). In particular, the authorities should take all necessary measures to:

– grant municipalities a substantial share of public responsibilities;

– ensure that sufficient means are provided for their implementation; and

– with respect to Baku and other large cities, set up a city council directly elected by the citizens to run local public administration acting at overall city level.

– Bosnia and Herzegovina

203. Local government reform in the Federation of Bosnia and Herzegovina and Republika Srpska is not progressing as well as it should. The overall institutional set up of Bosnia and Herzegovina complicates the furthering of the decentralisation reform, as the adoption of basic legislation on local self-government falls in the Republika Srpska within the competence of the Entity and in the Federation of Bosnia and Herzegovina within the competence of the cantons. The Republika Srpska adopted a new law on local self-government in April 2004, in close cooperation with the Council of Europe. The law was subsequently amended in 2007 but still falls short of a number of the requirements of the European Charter of Local Self-Government.

204. In the Federation of Bosnia and Herzegovina, the proposal, initiated in 2005, to amend the constitution in order to assign regulatory competences for local self-government to the federation failed to secure the required majority. Nevertheless, a law on the principles of local self-government was adopted in 2006 at the federation level, thus laying down a number of core rules along which decentralisation should develop in the cantons. However, the adoption of this basic legislation is just the beginning of the process. Specific legislation on local self-government has to be enacted by the cantons and cantonal framework laws should ensure effective devolution of sectoral responsibilities. Equally, fiscal decentralisation needs to be further strengthened in both Republika Srpska and the Federation of Bosnia and Herzegovina in order to give local authorities effective means to exercise their competences. The issue of local government property has also yet to be resolved.

205. The efficient functioning of local self-government would require, in the medium term, a degree of harmonisation of basic and sectoral legislation in Republika Srpska, the Federation of Bosnia and Herzegovina and the cantons in order to establish a basis for inter-entity cooperation between municipalities in service provision. Such harmonisation would of course be easier to implement within the framework of a wide constitutional reform at the level of the state. However, pending the implementation of the constitutional reform, the authorities of Republika Srpska, the Federation of Bosnia and Herzegovina and cantons should closely co-operate in the harmonisation of local government legislation in order to build strong and effective local democracy in Bosnia and Herzegovina.

206. With respect to the status of Mostar, no major developments occurred in 2007. The administrative unification of city authorities is progressing, although at a rather slow pace.

Georgia

207. Georgia is a party to the European Charter of Local Self-Government since 1 April 2005. It subsequently started, in co-operation with Council of Europe experts, the process of drafting and amending several laws, including the organic Law on Self-Government, the so-called decentralisation package. However, this package is still under consideration by the parliament. The laws on local self-government and on the budget for local self-governing units have been passed, but the adoption of the law on citizens' participation in local self-government activities is still pending.

208. The Assembly, in Resolution 1603 (2008), called upon the Georgian authorities to implement the legislative package on local self-government and to ensure the proper functioning of the State Commission on Decentralisation to lead the implementation of the decentralisation strategy.

Moldova

209. In its Resolution 1572 (2007) on the honouring of obligations and commitments by Moldova, the Assembly invited the Moldovan authorities to work with:

– Council of Europe experts to bring the legislation governing local government finance into line with the standards of the European Charter of Local Self-Government (ETS No. 122) by, in particular, increasing local authorities' own revenues, introducing a direct and transparent system of payment of transfers and building an objective, stable, predictable and fair equalisation system;

– the local authority associations and the Council of Europe's Centre of Expertise for Local Government Reform to develop the knowledge of local elected representatives and staff and their ability to implement new legislation by launching innovative capacity-building programmes;

– the Council of Europe to harmonise the legislation of the Autonomous Territorial Unit of Gagauzia with the Moldovan Constitution and national legislation.

210. In fact, although some positive developments occurred recently in terms of adapting the Moldovan legal framework for decentralisation to European standards, including the adoption of a new law on local public administration and administrative decentralisation, the financial arrangements for local government still remain extremely weak, thus hampering the implementation of the new legislation as well as limiting the real autonomy of local authorities to manage their competences effectively. The administrative and territorial reform should also be seen as a key medium-term priority of the decentralisation reform, given the large number of first and second-level local authorities in a relatively small country.

Monaco

211. The principality has only one municipality, whose boundaries correspond to those of the state. Despite this de facto situation, the municipality is administered differently to the state (see Doc. 11299, paragraphs 130-131).

212. A new law on local self-government came into force in June 2006. This law gave greater financial and budgetary autonomy as from 2007.

213. When welcoming the 2006 law on local self-government, the Assembly, in its Resolution 1566 (2007), also encouraged the Monégasque authorities to ensure that foreign nationals residing in the principality be allowed to participate in the management of municipal affairs, in keeping with Council of Europe standards.

Montenegro

214. Considering that the existing legislation regarding local self-government in Montenegro is not in line with the European Charter of Local Self-Government (ETS No. 122), the Assembly asked the Montenegrin authorities, in Opinion No. 261 (2007)[22] on the accession of Montenegro, to ratify this charter without delay, and at the latest within one year after its accession. The Assembly also asked the Montenegrin authorities:

> *"to strengthen the government structures responsible for local self-government, notably with regard to administrative supervision, and to revise the legislation and regulations governing local budgeting, equalisation schemes and the devolution of sectoral responsibilities to the municipalities".*

Russian Federation

215. While a number of concerns in this context remain, notably with regard to the composition of the Council of the Federation[23] and its effects on the separation of powers, the co-rapporteurs who visited Russia from 20 to 24 April 2008 welcomed the efforts by the Russian authorities to strengthen regional and local democracy.

Serbia

216. In summer 2007, Serbia ratified the European Charter of Local Self-Government, thus fulfilling another outstanding accession commitment. However, the legislative and financial framework for local government in Serbia still needs to be further strengthened to comply with the charter standards. The co-rapporteurs of the Committee on Serbia pointed out in their draft report on the honouring of obligations and commitments by Serbia (AS/Mon(2008)7 rev.) that the effective devolution of sectoral responsibilities to local authorities needs to be completed, fiscal decentralisation has to be further strengthened in order to give the local authorities appropriate means to manage new competences effectively, and the procedure of administrative supervision over local authorities' action needs to be clarified and streamlined. Equally, the outstanding issue of local government property needs to be resolved to help promote local and regional development further. Finally, the capacity of local authorities needs to be built up to enable them to manage new competences effectively and in the interests of the local population. These are but a couple of priority objectives the Serbian authorities have to face in the years to come in the field of local and regional government reform.

217. Equally, in their draft report on the honouring of obligations and commitments by Serbia (AS/Mon(2008)7 rev.), the co-rapporteurs of the committee encouraged the authorities and all key stakeholders to continue reflections about introducing an intermediary tier of local government in the country. Regionalisation is a good way to improve the standards of democracy. It will also improve the capacity of public authorities to manage devolved competences more efficiently, in line with the principle of subsidiarity. It will furthermore create an appropriate basis for managing structural reforms, thus increasing the capacity of Serbian authorities to absorb EU pre-accession funding.

Ukraine

218. Since 2005 (see Assembly Resolution 1466 (2005) and Doc. 10676), no major developments have occurred in the field of local and regional self-government in Ukraine. Territorial reform is still needed in the country. During their next visit, the co-rapporteurs could obtain updated information in this area.

2.1.7. Conflicts and the role of parliaments in promoting confidence building

219. On 5 and 6 November 2007, in Berlin, our committee co-organised with the German Bundestag and the German Institute for International and Security Affairs (SWP) a hearing on "frozen conflicts". The hearing gave rise to productive exchanges of views between a panel of leading experts, high-level government, Council of Europe and EU representatives, and members of the Monitoring Committee.

220. Historians, researchers and international law specialists analysed the current situation in NagornoKarabakh, Abkhazia, South Ossetia and Transnistria. They outlined the different tools which could be used for the settlement of the conflicts, including parliamentary diplomacy, conflict prevention and conflict resolution policies within the framework of the EU. Various options offered by comparative constitutional law were also presented by the representative of the Council of Europe's Venice Commission.

221. According to the conclusions of the meeting, our Assembly is well placed to provide a forum for raising awareness on these issues, as well as a platform in which experiences of conflict-settlement processes can be discussed and lessons learned. The Assembly can also help foster a positive negotiating climate, through dialogue at the parliamentary level. Parliamentarians can lobby their own governments to support peaceful conflict resolution, facilitate the implementation of conflict settlements and post-conflict programmes, and, generally, assist in the democratic consolidation of the countries/regions concerned. The Monitoring Committee plays a specific role in this regard by regularly monitoring the respect of commitments in the

22. See the opinion by the Monitoring Committee in Doc. 11207. See also the report by the Political Affairs Committee in Doc. 11204 and the opinion by the Committee on Legal Affairs and Human Rights in Doc. 11205.
23. According to the legislation half of the members of the Council of the Federation are appointed by the executive bodies of the subject of the federation, who are headed by the governors appointed by the president.

countries concerned, including those relating to the resolution of these conflicts. National parliaments in the countries concerned have also a role to play in promoting confidence building as a prerequisite for the peaceful settlement of conflicts.

222. It is clear that democratic developments in Azerbaijan, Georgia and Moldova cannot be consolidated as long as their territorial integrity is not restored and a peaceful settlement of the conflicts of Nagorno-Karabakh, Abkhazia and South Ossetia, and Transnistria respectively has not been achieved. Regrettably, no significant positive developments have been registered during the reporting period (April 2007-June 2008) with respect to any of the above-mentioned conflicts; the tensions have recently escalated with respect to the Abkhaz and South Ossetian conflicts.

2.2. States involved in a post-monitoring dialogue

2.2.1. Bulgaria

223. Following an exchange of views in May 2007 with the Bulgarian delegation on an information note prepared by the first vice-chair in the framework of the post-monitoring dialogue with Bulgaria (Document AS/Mon(2006)26) and the comments thereupon submitted by the Bulgarian authorities (Document AS/Mon(2007)13), the Monitoring Committee decided to ask the opinion of the Venice Commission on the Bulgarian Constitution, in particular with respect to the amendments in February 2007.

224. The Venice Commission delegation visited Bulgaria in November 2007 and held an exchange of views with the Minister of Justice of Bulgaria at its meeting of March 2008, during which the minister submitted both oral and written observations (Document CDL(2008)035). In its opinion, adopted at that meeting (Document CDL(2008)009), the Venice Commission concluded that the provisions of the Constitution of Bulgaria, including its recent amendments of February 2007, were generally in conformity with European standards and in line with constitutional practice in other European states. The constitution has provided a sound framework for the development of a democratic system in Bulgaria.

225. However, the Venice Commission considered that this did not mean that there was no room for further improvements in the text, with respect to both the chapter on human rights and the one on the judiciary. From the angle of the separation of powers, the role of the Minister of Justice as Chair of the Supreme Judicial Council with the right to initiative is problematic; the minister's right to propose the budget may contradict the constitutional principle of the budgetary independence of the judiciary; membership in the Supreme Judicial Council should be incompatible with any representative mandate or political function; it should be ensured that, within the Supreme Judicial Council, judges, prosecutors and investigating magistrates cannot interfere within each other's affairs; the probationary period of five years for new judges raises serious difficulties for judicial independence; and the inspectors are given too broad powers, with the risk of interference in the administration of justice.

226. For the Venice Commission, the new provisions of the constitution in relation to civil and criminal immunity in the judiciary are in line with previous recommendations and are to be welcomed. On the other hand, the difficulties relating to the structure of the Supreme Judicial Council have not been addressed since the earlier Venice Commission opinions. Some 11 members are still elected by parliament, while it remains possible for a simple majority in parliament to elect all of these members. One solution might be to have only one third of the members of the council elected by parliament with a qualified majority.

227. The Venice Commission welcomed the constructive reaction of the Bulgarian authorities to this opinion and expressed its readiness for further co-operation with them as well as with the Parliamentary Assembly.

228. In my capacity of chairperson of the committee I should visit Bulgaria before the end of this year or the beginning of 2009 to update the most recent information note drafted by Ms Severinsen in September 2006 and discuss the contents of the opinion of the Venice Commission and the intentions of the Bulgarian authorities as to the follow-up which should be given to the recommendations made by the Venice Commission for improvement of the constitution.

2.2.2. "The former Yugoslav Republic of Macedonia"

229. In the memorandum on the post-monitoring dialogue with "the former Yugoslav Republic of Macedonia", prepared by the Chairperson of the Monitoring Committee (AS/Mon(2007)12 rev.2), the committee noted that the parliament badly needs new parliamentary rules of procedure, which would take account of a proper language balance, reasonable time frames for debates and MPs' work with their electorate. In fact, at the moment, the parliament is in session five days a week and all round the year, which

does not leave any time for the MPs to meet with their electorate in their constituencies. Equally, speaking time at any stage of legislative procedure is not limited. It is believed that delaying and obstructing undesired legislation by means of endless discussions was an old "blocking" tactic of any successive opposition in the parliament.

230. The divisions between the coalition partners and the opposition were aggravated by a recent parliamentary crisis which started in March 2008 when the Democratic Party of Albanians (one of the members of the ruling coalition) left the coalition for ten days to protest against the non-recognition of independence for Kosovo. The crisis was further aggravated by the fact that Greece vetoed the country's accession to NATO. As a result, parliament dissolved itself and a new election was called for 1 June 2008. The committee followed the electoral process closely and hopes that the new majority coalition will be able to engage in a constructive dialogue with the opposition in order to enhance the functioning of the country's democratic institutions.

231. As regards the fight against corruption, this was the number one priority of the government. The legal and institutional framework as regards corruption has been enhanced to a degree. Parliament has ratified the United Nations Convention against Corruption. The country has also made good progress in implementing the recommendations of GRECO: the first set has been mostly implemented and the implementation of the second set is currently under way. Also, the immunity rules have been changed in line with the recommendations of GRECO. The Law on Free Access to Public Information has been adopted in view of increasing the transparency of public activities. Transparency International has noted progress in the country's efforts to fight against corruption and organised crime, ranking it 84th in 2007, up from 105th place the year before.

232. The Code of Ethics for Civil Servants has been amended to include an obligation for civil servants to report all illegal acts carried out by other civil servants in the performance of their duties. Also, amendments to the anti-corruption law have been enacted to prohibit political parties from receiving and spending funds from anonymous sources. The amendments reinforced the obligation on all appointed and elected officials to declare their assets, and made it obligatory for these to be published on the State Anti-Corruption Commission website. A law on conflicts of interest was recently adopted which sets out measures and activities for establishing, preventing and sanctioning cases of conflict of interest when performing activities of public interest.

233. The State Anti-Corruption Commission has been vested with the responsibility of dealing with corruption cases. It has also prepared the new action plan for prevention and repression of corruption, as an upgrade of the existing one. However, the approach to tackling corruption is not yet comprehensive and it lacks concrete allocation of resources.

234. Despite all these efforts, corruption remains widespread and is facilitated by the lack of good governance, transparency and accountability in public administration. The country's capacity to investigate and prosecute corruption is weak, although some progress has been made in this field. Many cases are reported to have been brought to court but they then disappear. Nonetheless, a few court decisions have been issued in high profile cases, including those of a former deputy minister, former customs director, judges, lawyers, notaries and police officers. The implementation of efficient anti-corruption legislation together with the strengthening of institutions and consolidation of strong independent oversight mechanisms remain the key urgency.

235. As regards local and regional self-government, the second phase of the decentralisation process was launched in July 2007 with 42 of the 85 municipalities considered ready. Nevertheless, the very high degree to which competence in virtually all areas of public authority is to be transferred is a challenging task.

236. The question of debt remains an issue as substantial debts could threaten the functioning of several municipalities. Smaller municipalities have difficulties delivering basic services. Municipal tax collection is a challenge in many municipalities. The approach to financing education has been improved but remains inadequate. The fact that tensions and lack of mutual confidence persist among the communities makes cooperation between the Albanian municipalities dominated by the opposition and the central government difficult. The question of giving special status to Skopje has not yet been decided.

237. Land reform has not been carried out – the ownership question is still a bone of contention that leads to many court disputes. The land cadastre, prepared with foreign donor support (World Bank), will be operational only in 2008. The goal is to have administrative documents delivered within ten days after their request, which will help reduce the enormous bureaucracy and source of corruption, and it is an indispensable condition for safety of investment.

238. In order to surpass the economic and social differences between various regions of the country and between the urban and rural areas, the government adopted a draft law on equal regional development on 21 February 2007. However, the funding of the tasks decentralised to the municipalities remains insecure. The qualitative and quantitative capacities of some municipalities remain rather low. Co-ordination and information-sharing between municipalities remains limited.

239. In my capacity of chairperson of the committee I should visit the country in order to update the memorandum prepared by my predecessor, before the end of this year or at the beginning of 2009.

2.2.3. Turkey

240. In the framework of the post-monitoring dialogue with Turkey and upon the request of the former chairman of the committee, in December 2007, the Turkish delegation to the Assembly provided information on the progress made with regard to 12 issues raised in Resolution 1380 (2004), which closed the monitoring procedure for Turkey (see Document AS/Mon(2007)58 confidential, available only to the members of the Monitoring Committee). Among these issues appeared the need to:

– "carry out a major reform of the 1982 Constitution, with the assistance of the Venice Commission, to bring it into line with current European standards";

– "amend the electoral code to lower the 10% threshold and enable Turkish citizens living abroad to vote without having to present themselves at the frontier";

– "complete the revision of the Criminal Code, with the Council of Europe's assistance, bearing in mind the Assembly's observations on the definitions of the offences of insulting language and defamation, rape, honour crimes and, more generally, the need for proportionality arising from the European Court of Human Rights' case law on freedom of expression and association";

– "reform local and regional government and introduce decentralisation in accordance with the principles of the European Charter of Local Self-Government (ETS No. 122); as part of the reform, to give the relevant authorities the necessary institutional and human resources and arrange distribution of resources to compensate for the underdevelopment of certain regions, particularly southeast Turkey, and move from a dialogue to a formal partnership with United Nations agencies to work for a return, in safety and dignity of those internally displaced by the conflict in the 1990s."

241. Early parliamentary elections were held in Turkey, on 22 July 2007, following a political crisis that developed over the parliament's failure to elect a new president of the republic to succeed Ahmet Necdet Sever before the expiry of his single seven-year term, on 16 May 2007. In the context of the post-monitoring dialogue between the Assembly and Turkey, the Grand National Assembly of Turkey invited the Assembly to observe these elections.

242. The ad hoc committee which observed them (see Doc. 11367) found that the elections were generally in compliance with Turkey's Council of Europe commitments and European standards for free elections and the Assembly's delegation said it was impressed with the organisation and the conduct of the vote, which took place in an orderly and professional fashion testifying to a longstanding tradition of democratic elections in Turkey.

243. The high voter turnout showed that confidence in the democratic process exists in Turkey. Electoral administrators at all levels dispatched their duties effectively and in good faith.

244. However, the ad hoc committee believes that Turkey could do more in terms of organising even better elections that would guarantee a genuinely representative parliament. The 10% threshold requirement, aimed officially at ensuring stability but, in effect, limiting representation in the parliament, could be lowered, in accordance with Assembly Resolution 1380 (2004) and Resolution 1547 (2007) on the state of human rights and democracy in Europe. The fact that the new parliament elected on 22 July 2007 is far more representative than the outgoing parliament, representing about 90% of the opinions of the electorate, is due to the fact that three instead of two parties are represented and to the ploy of opposition parties to launch party-sponsored independent candidates and not to any steps taken by the Turkish authorities themselves.

245. The ad hoc committee suggested that the Turkish authorities might wish to consider seizing the Venice Commission on this issue, as well as on simplifying electoral legislation.

246. Consideration should be given also to the following issues:

– allowing appeals to a court of law against administrative rulings by the Supreme Board of Elections, also because the over-regulated legislation results in bureaucratic hassle that can impede the registration process for candidates and creates problems for different ethnicities;

– complete lists and allowing campaigning in regional and minority languages, as well as to making ballot papers more legible – which was not adequately achieved by the newly introduced unique ballot paper – given the amount of entries they contain, which makes them difficult to read, in particular for the illiterate and persons belonging to national minorities;

– introducing legal provisions concerning election observers and codifying their status in the law in accordance with the conclusions of the Conference on the Parliamentary Dimension of Election Observation: Applying Common Standards, held in Strasbourg in February 2007.

247. Political parties in Turkey could also wish to reconsider internal party democracy issues, taking into account Parliamentary Assembly Resolution 1546 (the code of good practices for political parties).

248. During the April part-session of the Assembly, a written declaration was signed by Assembly members (Doc. 11589) on the ongoing judicial proceedings against the Justice and Development Party (AKP) in Turkey. Recognising the independence of the judiciary and prosecution, the signatories expected the latter to respect the case law of the European Court of Human Rights on Articles 10 and 11 of the ECHR when considering political party closure and bans on individual members. Encouraged by the resolute commitment of Turkey to pursue the democratic reform process, they urged Turkey to consider without delay further constitutional and legislative reforms to conform fully with the ECHR.

249. In my capacity of chairperson of the committee I should visit Turkey if possible in Autumn 2008 to report back to the committee on progress made by the Turkish authorities on the 12 issues mentioned in Resolution 1380 (2004) and Resolution 1547 (2007), as well as on the recommendations made by the ad hoc committee on the observation of the 2007 parliamentary elections in Turkey and developments regarding the judicial proceedings against the AKP and its possible closure. I hope that, in the meantime, the Turkish authorities could consult with the Venice Commission about the ongoing constitutional reform so that I could avail myself of feedback provided by this prestigious Council of Europe body.

2.3. Applications to initiate a monitoring procedure

2.3.1. Media pluralism in Italy

250. On 24 January, 2006, Mr Wodarg and others tabled, through a motion for resolution, an application to initiate a monitoring procedure concerning the monopolisation of the electronic media and possible abuse of power in Italy (Doc. 10811). This motion was referred for opinion to the Monitoring Committee by the Bureau on 29 May 2006, after the general elections held in Italy in April 2006. The Monitoring Committee's co-rapporteurs, Mr Patrick Breen (Ireland, EPP/CD) and Mr Erik Jurgens (Netherlands, SOC), visited Italy in July 2007. The committee adopted and forwarded its opinion to the Bureau in September 2007 (Document AS/Mon(2007)35).

251. The findings of the co-rapporteurs confirmed that Italy's media spectrum was clearly experiencing an anomaly in its television sector with one of the highest levels of concentration at the national level in Europe. Characterising this anomaly is the "duopoly" between the public service broadcaster, RAI, and the privately-owned commercial operator, Mediaset, over the last decade, with RAI being subject to political influences.

252. Up until the beginning of 2006, this situation was exacerbated by the conflict of interest arising out of the dual status of Mr Silvio Berlusconi as owner of Mediaset and Prime Minister. Although the current law on conflicts of interests (Frattini Law) was deemed inadequate to remedy such a situation in that it prohibits only the management not the ownership of a company and public office, the corapporteurs considered that the urgency of the situation was remedied, at least de facto, by the simple fact that Mr Berlusconi was no longer at the head of the government.

253. Although RAI and Mediaset carve out the market as principal and level players, a third important operator, Sky Italia, is emerging as a front runner in the satellite television market and is participating in the overall revenue share of the television market. In addition, the switch over to Digital Terrestrial Transmission (currently foreseen for 2008) will open the television market to new operators and has the potential of ensuring greater pluralism through content diversity and increased information sources.

254. As regards the regulation of dominant market positions in the television sector, there are several independent regulatory bodies which vigilantly monitor the situation and have made use of their regulatory powers in applying strict limits as provided by the law, upon which the Constitutional Court has relied in the past to come to its decisions. As far as content is concerned, on the basis of the Equal Access Law ("Par Condicio") of 2000, the Communications Regulatory Authority (AGCOM) strictly monitors equal access in airtime or advertising space, and has even extended this law to apply outside of electoral periods.

255. Notwithstanding the high level of concentration in the national analogue terrestrial television sector, Italian citizens generally have access to a wide variety of information sources and content diversity across the media landscape. An examination of the global media market reveals a highly active and diverse local television sector with around 600 channels and other pluralistic media sectors, such as the radio, and the printed press sector, the latter being considered as one of the least concentrated in Europe.

256. Although the co-rapporteurs agreed with the Venice Commission that "internal pluralism must be achieved in each media sector at the same time", they concluded that the anomaly in one of its electronic media sectors did not itself warrant the initiation of a full-fledged monitoring procedure with respect to Italy. As a result, it could not be argued that Italy had violated its commitments of media pluralism and freedom of expression as guaranteed under Article 10 of the European Convention on Human Rights, to which it is party.

257. They noted, however, that the principal legislation currently in force governing this particular sector is largely inadequate in responding to Italy's unique media context, as was determined by the Venice Commission in its 2005 opinion. Proposed draft laws, intended to increase systematic regulation of the media sector, with an emphasis on pluralism and market competition, were under examination before the Chamber of Deputies and the Senate, including an important draft law dealing with the reform of RAI in an attempt to free it of its political stronghold and therefore increase independence and content diversity. In this context, the co-rapporteurs wished to underline that whatever form this "liberalisation" may take, either through privatisation or through a public foundation, it was paramount that the RAI carry out its public service remit uncompromisingly, that funds to finance this part of its activities come from public sources, and that it have complete independence from the political sphere (either government or parliament). In the opinion of the co-rapporteurs, these laws require further revision in order to achieve these laudable aims.

258. As a result, the Monitoring Committee was of the opinion that a monitoring procedure should not be opened "at [that] stage" (that is, in September 2007) but that the legislative developments in Italy should be followed in its periodic reports, assisted, where necessary, by the Committee on Culture, Science and Education or the Committee on Legal Affairs and Human Rights.

259. The Bureau of the Assembly endorsed the opinion of the Monitoring Committee and made it public at its meeting of 22 November 2007. The Assembly ratified the decision not to open a monitoring procedure with respect to Italy during its January 2008 part-session.

2.3.2. Elections in the United Kingdom, in particular postal voting

260. In June 2006, Mr Wilshire and other members of the Assembly tabled, through a motion for a resolution, an application to initiate a monitoring procedure to investigate electoral fraud in the United Kingdom. In this motion, the authors alleged that the growing body of evidence that absent voting fraud is taken place in the United Kingdom would warrant the initiation of a monitoring procedure by the Assembly. This motion was referred to the Monitoring Committee, which appointed Ms Herta Däubler-Gmelin (Germany, SOC) and Ms Ursula Gacek (Poland, EPP/CD) as co-rapporteurs for opinion to the Bureau of the Assembly. Following the co-rapporteurs' visit to the United Kingdom in February 2007 and upon their proposal, the committee decided in April 2007 to ask the Venice Commission's opinion on three specific questions regarding the voter registration and postal voting systems in the United Kingdom. The Venice Commission adopted its opinion in December 2007 (Document CDL-AD(2007)046).

261. In their opinion (Doc. 11565, Addendum 2), the corapporteurs concluded that the electoral system in Great Britain is clearly open to electoral fraud. This vulnerability is mainly the result of the rather arcane system of voter registration without personal identifiers. It was exacerbated by the introduction of postal voting on demand, especially under the arrangements as existed before the changes in the Electoral Code in 2006. The 2006 changes to the Electoral Code enhanced the security of the postal voting arrangements, but other shortcoming and vulnerabilities remain.

262. Despite these vulnerabilities in the electoral system, there is no doubt that elections in the United Kingdom are conducted democratically and represent the free expression of the will of the people of the United Kingdom. On these grounds, it cannot be argued that the United Kingdom has fallen short of honouring its democratic commitments to the Council of Europe and the co-rapporteurs could therefore not recommend opening a monitoring procedure with respect of the United Kingdom.

263. This opinion was adopted by the Monitoring Committee on 24 January 2008 and sent to the Bureau which, on 13 March 2008, in accordance with the recommendation of the Monitoring Committee, recommended to the Assembly not to open a monitoring procedure with respect of the United Kingdom at this stage.

264. However, the co-rapporteurs stressed in their opinion that the vulnerabilities in the electoral system could easily affect the overall democratic nature of future elections in Great Britain. The co-rapporteurs therefore recommended that the Monitoring Committee, in its periodic reports on the honouring of commitments by member states, should pay special attention to electoral issues with respect of the United Kingdom and, if the vulnerabilities noted are found to undermine the overall democratic nature of future elections, apply to initiate a monitoring procedure with respect to the United Kingdom.[24]

265. The Assembly ratified the decision not to open a monitoring procedure with respect to the United Kingdom during its April 2008 part-session.

266. On 18 March 2008, the committee received a copy of a judgment concerning the elections to the Slough Borough Council in May 2007, in which there was serious electoral fraud arising from the false registration of names on the electoral register, one of the weaknesses of the British electoral system identified in the opinion of the committee.

3. The Monitoring Committee and the other Council of Europe monitoring mechanisms

267. The Monitoring Committee has continued to benefit from the work carried out by other Council of Europe monitoring bodies and institutions. Its co-rapporteurs, during their visits to the countries concerned and in their reports, systematically refer to the judgments of the European Court of Human Rights and the recommendations issued by the other Council of Europe bodies and institutions and urge for their execution or implementation. By doing so, the Monitoring Committee promotes in turn the work of these mechanisms. As an example, the publication of several reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was authorised by member states just after the co-rapporteurs' visits.

268. In addition, since June 2006, the Monitoring Committee has been producing periodic reports on all member states not currently subject to a monitoring procedure or involved in a post-monitoring dialogue, which summarise the findings of the main Council of Europe monitoring bodies and institutions on these states. Some 33 member states are concerned by this exercise, subdivided into three groups of 11 (on the basis of alphabetical order). The committee attaches these periodic reports to its annual progress reports to the Assembly, with each group of states reported upon every three years.[25]

269. To prepare these periodic reports account is taken of the work carried out by the following Council of Europe bodies and institutions: the European Court of Human Rights; the Committee of Ministers in its supervisory function of the execution of the Court's judgments; the European Committee of Social Rights (ECSR); the Commissioner for Human Rights; the Congress of Local and Regional Authorities of the Council of Europe; the Group of States against Corruption (GRECO); the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL); the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); the Advisory Committee on the Framework Convention for the Protection of National Minorities; the Committee of Experts of the European Charter for Regional or Minority Languages; and the European Commission against Racism and Intolerance (ECRI). As of next year, the work of a new monitoring institution, GRETA, to be set up under the Convention against Trafficking in Human Beings, will also be taken into account.

270. The periodic reports also include references to the work of Council of Europe consultative bodies, such as the European Commission for Democracy through Law (Venice Commission) and the European Commission for the Efficiency of Justice (CEPEJ).

---

24. See addendum to the present report.
25. See Resolution 1515 (2006), Doc. 10960 and addendum for the first cycle and Resolution 1548 (2007), Doc. 11214 and addendum for the second cycle.

271. Without additional resources, the Monitoring Committee is thus seeking to fulfil its mandate "to ensure full compliance with the undertakings made by all member states, in a spirit of co-operation and non-discrimination" and has enabled the Assembly and the public at large to become aware of the main issues at stake within the member states concerned and, at the same time, of the relevant work carried out by the Council of Europe. It has thus provided a mechanism of parliamentary oversight of the activities of the intergovernmental sector of the Council of Europe.

272. In the context of this annual exercise, the committee has also organised a series of exchanges of views: in 2006 with the Commissioner for Human Rights, the Chairperson of GR-DEM and the Chairperson of the Institutional Committee of the Congress of Local and Regional Authorities of the Council of Europe; in 2007 with the Chairperson of the CEPEJ; and in 2008, with the Chairperson of GRECO.

273. This year, the committee completes the first threeyear cycle of periodic reporting. Reports are appended in the addendum to the present report on the last group of 11 states: Norway, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

274. At the same time, having completed this exercise for all member states not subject to a monitoring procedure or involved in a post-monitoring dialogue, some observations can be made and conclusions can be drawn in order to improve efficiency of the unique monitoring machinery of the Council of Europe and enhance synergies for the benefit of the Organisation, the member states and ultimately European citizens.

3.1. Optimising synergies and capitalising on the monitoring bodies' output into the Organisation's programme of activities

275. The Council of Europe represents the most comprehensive multilateral monitoring system in Europe if not in the world. The independence and impartiality of its various monitoring bodies, as well as their expertise, have contributed to their efficiency and the *acquis* they have established over years of functioning.

276. Some of these mechanisms are treaty based, such as for instance the CPT, the ECSR or the Advisory Committee of the Framework Convention for the Protection of National Minorities, others are not: for instance, the Commissioner for Human Rights or ECRI. Their nature varies (judicial, quasi-judicial or non-judicial), as do their working methods and degree of confidentiality of their work, as well as the scope of their mandate.

277. Among the political bodies carrying out monitoring activities, the Assembly, through its Monitoring Committee, has the largest mandate since it verifies compliance with the specific accession commitments, as well as with the statutory or convention obligations assumed by the member states and covers a wide variety of issues with respect to democracy, the rule of law and human rights, including minority rights, in the member states under monitoring. This becomes clear by simply looking at the contents of the Monitoring Committee's reports or the country grid used for the preparation of its periodic reports.

278. Despite the above-mentioned differences, the mandates of the various monitoring mechanisms often overlap. For instance, prison conditions in a member state under monitoring procedure is an issue examined by the European Court of Human Rights, the CPT, the Commissioner for Human Rights, as well as the Assembly's Monitoring Committee.

279. It is thus clear that finding ways and means for optimising synergies and enhancing co-ordination among the various mechanisms, without – I underline this – putting at risk their independence or interfering with their distinct working methods and priorities, is essential if their efficiency is to be further enhanced. In particular, tools could be defined allowing for the various monitoring mechanisms to adapt their respective agendas as regards fact-finding missions, reports, etc., improve information sharing and avoid duplication. Cross-references by one monitoring mechanism to another (especially by a more general to a more specialised mechanism) and thus a more coherent action can only increase the mechanisms' impact and improve dialogue with the authorities of the member states concerned.

280. Since optimising synergies would be highly beneficial to our work, our committee could organise a hearing bringing together the chairpersons of all monitoring bodies whose work is fed into our committee's work (see paragraph 269 above), the Commissioner for Human Rights, the President of the European Court of Human Rights, the Chairperson of the Institutional Committee of the Congress of Local and Regional Authorities of the Council of Europe (in charge of monitoring in the field of local self-government), as well as a representative of the Committee of Ministers. The Monitoring Committee could thus offer a forum for an exchange of ideas and search for ways and means to improve synergies among all those primarily concerned.

281. The presidents of consultative bodies, which assist – with their expertise – on the one hand, the member states in honouring their obligations and commitments and, on the other, the Monitoring Committee co-rapporteurs in better understanding the situation in the member states concerned, namely the Venice Commission and the CEPEJ, should also participate at this hearing. Especially the Venice Commission works very closely with our committee, responding always rapidly and efficiently to our various requests for opinions on one or more laws or constitutions in member states under monitoring or post-monitoring or for which a monitoring procedure has been requested (such as has been recently the case with the electoral system in the United Kingdom).

282. Such a hearing would also allow our committee to decide how to proceed further with the second cycle of its periodic reports which will start as of June this year, after the adoption of the present progress report.

283. The hearing could take place, if possible, before the end of the year, on dates to be agreed after consultation with all those concerned. Only if all bodies and institutions concerned can be represented could such a hearing lead to concrete results and achieve its objective.

284. Apart from enhancing co-ordination, to further improve the efficiency of the Council of Europe monitoring machinery, it would be also necessary to ensure that the findings of the various monitoring mechanisms feed directly into the Organisation's programme of activities, in particular as regards standard setting, expert assistance and co-operation programmes. Such programmes should take into account the work of the mechanisms and address as a priority shortcomings identified by them in the countries concerned.

285. One solution would be to ask the mechanisms themselves to give their views on what they see as a priority in terms of assistance either in standard setting or in more technical terms. They could present their proposals to the Secretary General and the Committee of Ministers before the adoption of the Organisation's programme of activities. For the same purpose, the findings and recommendations contained in the country monitoring reports prepared by our committee should also be taken duly into account. Voluntary contributions could also be sought to implement recommendations made by monitoring mechanisms in member states when financing by the ordinary budget is not possible or sufficient (see for instance two pilot projects on prison reform in Albania and Moldova financed by such voluntary contributions).

3.2. Enhancing specific follow-up by the Council of Europe mechanisms themselves and by appropriate national mechanisms: in particular, parliamentary oversight

286. Enhanced follow-up procedures enabling the monitoring mechanisms to verify implementation of their recommendations by the member states is another essential element to ensure increased efficiency.

287. The various monitoring bodies of the Organisation apply different working methods for verifying the implementation of recommendations. Some do so through "compliance" or "follow-up" reports (such as, for instance, GRECO and the Commissioner for Human Rights respectively); others organise a follow-up seminar (such as for instance the ECRI and the Advisory Committee of the Framework Convention for the Protection of National Minorities); the CPT carries out extensive (confidential) post-visit dialogue with the countries concerned; with respect to the conclusions and decisions of the ECSR, the European Social Charter provides for a specific follow-up mechanism involving the Committee of Ministers and the governmental committee.

288. However, between the moment a monitoring mechanism addresses a number of recommendations to a member state and the moment a follow-up report is made public, a rather long period of time elapses ranging from two to five years or more. During this period, it is often impossible to obtain information on the follow-up given by the member states concerned on the findings of each mechanism. This is a reality with which our committee is often faced either when searching for information in a member state under monitoring or post-monitoring or when preparing the annual periodic reports.

289. It would thus be advisable that monitoring mechanisms engage a reflection with a view to strengthening existing follow-up procedures provided that additional resources are allocated to the mechanisms for this purpose.

290. Equally important is to set up or enhance national mechanisms in charge of ensuring that appropriate follow-up is given to findings of Council of Europe monitoring mechanisms in the member states. They could be general or specific, that is in charge of one or more Council of Europe monitoring mechanisms.

291. Such national mechanisms would in particular be responsible for preparing responses to the monitoring mechanisms of the Council of Europe, co-ordinating action among all state actors involved in the implementation of their recommendations, awareness raising and disseminating information on the

mechanism's findings and recommendations, as well as preparing, where appropriate, action plans on the measures needed to implement them. They could also offer advice on compatibility of national legislation and practice with Council of Europe standards as developed by the mechanisms concerned.

292. The adoption by the Committee of Ministers in February 2008 of Recommendation Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights sets an example which can be followed *mutatis mutandis* with respect to the implementation of the recommendations made by other Council of Europe monitoring bodies and institutions. The recommendation provides for a co-ordinator – individual or body – as regards execution of judgments to be designated at the national level, "with reference contacts in the relevant national authorities involved in the execution process".

293. Also, tools could be defined allowing for regular feeding of information on follow-up given by member states to the recommendations made by the monitoring mechanisms. National mechanisms of co-ordination could be in charge of transmitting relevant information (for instance, onto a database) at regular intervals (for instance, every six months). The Council of Europe mechanisms could initially simply take note of this information, while proceeding to a critical analysis and assessment in the context of their enhanced follow-up procedure (for instance, follow-up visit, report, seminar, etc.) at longer intervals.

294. Provided that member states accept to waive confidentiality on a voluntary basis, as appropriate, other Council of Europe monitoring mechanisms or institutions, including our committee, could thus benefit from updated – although not yet critically assessed – information and take it into account in their work. This would increase transparency and again enhance synergies. For instance, our committee has decided to make public the comments of the parliamentary delegations concerned on the preliminary draft reports it produces provided that these delegations do not object, although in principle all working documents of the committee are confidential.

295. Of course, the necessary additional resources should be allocated to the mechanisms to create such tools being understood that, once in place, they would improve information flow without affecting their working programme and causing extra costs.

296. Last but not least, national parliaments should be regularly informed of measures taken by the governments to implement recommendations by Council of Europe monitoring mechanisms, as well as to ensure execution of the judgments of the Strasbourg Court. Such information could be presented to them by the national mechanisms in charge of co-ordination.[26]

297. Parliaments have a special role in promoting implementation of recommendations or execution of judgments of the Court by either initiating and adopting required legislation or exercising their role of oversight of government action.

298. They should also use the periodic reports prepared by our committee as the basis for a debate on their country's record with regard to the fulfilment of their statutory and conventional obligations as member states of the Council of Europe. Such parliamentary debates would ensure that MPs from the opposition and not only the ruling majority are aware of the findings of monitoring mechanisms and that their views are heard. This would strengthen democratic oversight and add a political dimension to reports which are often of a more technical nature.

4. Conclusions

299. Throughout the reporting period (April 2007-June 2008), the Monitoring Committee has continued to accompany 11 countries currently under monitoring procedure (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Monaco, Montenegro, Russian Federation, Serbia and Ukraine) and three countries engaged in a post-monitoring dialogue (Bulgaria, Turkey and "the former Yugoslav Republic of Macedonia") through the process of consolidating their democratic institutions in compliance also with the principles of the rule of law and the protection of human rights.

26. As regards the execution of judgments of the Court, such information is passed on to parliaments by the newly created institution of national coordinator "where appropriate".

300. Some of its most recent country monitoring reports were prepared under accelerated procedure in order to enable the Assembly to react quickly and efficiently to urgent and critical situations, involving directly the functioning of democratic institutions in the member states concerned, such as:

– the dissolution of parliament by presidential decree in Ukraine, in April 2007, after months of political crisis;

– the pre-term presidential elections in Georgia, in January 2008, called in a bid to resolve the political crisis which erupted in the country after several days of political protest and the declaration of the state of emergency in November 2007;

– the post-electoral crisis in Armenia, in February 2008, which led to the declaration of the state of emergency and the tragic events of 1 March, including 10 deaths and more than a 100 persons wounded;

– the preparation of the presidential elections in Azerbaijan, in October 2008.

301. On the basis of the reports prepared during the reporting period by the Monitoring Committee's corapporteurs on each country concerned, a number of conclusions can be drawn as to the recurrent issues raised in all countries under monitoring and (to a lesser extent) in countries engaged in a post-monitoring dialogue, as regards in particular: the separation of powers and the role of parliament; elections and electoral reform; political parties and their financing; the fight against corruption; media pluralism; local and regional self-government; and conflicts and the role of parliaments in confidence building. These conclusions with respect to both progress and shortcomings in the member states concerned are contained in the proposed draft resolution.

302. A number of proposals are also made regarding the relations of our committee with the other Council of Europe monitoring bodies and institutions, including the proposal to organise a hearing as a forum for exchanging ideas and identifying ways and means to improve synergies.

303. With a view to ensuring increased efficiency, the member states are also called upon to set up or enhance national mechanisms in charge of ensuring that appropriate follow-up is given to findings of Council of Europe monitoring bodies.

304. A number of other suggestions, including with a view to optimising synergies, capitalising on the monitoring bodies' output into the Organisation's programme of activities and supporting the monitoring bodies' work by the allocation of additional resources, are addressed to the Committee of Ministers.

305. If received positively by those concerned, I hope that these proposals could initiate a reflection which could eventually contribute to further increasing efficiency of the unique monitoring machinery of the Council of Europe – the largest multilateral monitoring system in Europe if not in the world – for the benefit not only of the bodies concerned, including our committee, but also of the Organisation as a whole, its member states and eventually European citizens.

Appendix – Chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism by the third group of 11 member states

CoE member states not currently under monitoring procedure or post-monitoring dialogue	Total no. of CoE conventions ratified or signed as of 7 May 2008 (out of 203)		DEMOCRACY	RULE OF LAW			HUMAN RIGHTS												
			ECLS-G	Convention on Corruption		Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 and revised versions)	ECH R	Protocols of the ECHR				ECPT	Social rights			Minority rights	
				Civil Law	*Criminal Law*			6	12	13	14		ESC (1961 and revised versions)	Protocol of the ESC on collective complaints	FCNM	ECRML
Norway	132	R	R	R	R	R 1990 – revised	R	R	S	R	R	R	R 1961 R revised	R	R	R
	14	S														
Poland	82	R	R	R	R	R 1990 R revised	R	R	–	S	R	R	R 1961 S revised	–	R	S
	15	S														
Portugal	105	R	R	–	R	R 1990 S revised	R	R	S	R	R	R	R 1961 R revised	R	R	–
	–	S														
Romania	97	R	R	R	R	R 1990 R revised	R	R	R	R	R	R	S 1961 R revised	–	R	R
	1	S														
San Marino	–	R	–	–	S	R 1990 S revised	R	R	R	R	R	R	– 1961 S revised	–	R	–
	17	S														
Slovakia	92	R	R	R	R	R 1990 S revised	R	R	S	R	R	R	R 1961 S revised	S	R	R
	6	S														
Slovenia	–	R	R	R	R	R 1990 S revised	R	R	S	R	R	R	S 1961 R revised	S	R	R
	16	S														
Spain	106	R	R	S	S	R 1990 – revised	R	R	S	S	R	R	R 1961 S revised	–	R	R
	14	S														
Sweden	–	R	R	R	R	R 1990 S revised	R	R	–	R	R	R	R 1961 R revised	R	R	R
	18	S														
Switzerland	106	R	R	–	R	R 1990 – revised	R	R	–	R	R	R	R 1961 – revised	–	R	R
	15	S														
United Kingdom	112	R	R	S	R	R 1990 – revised	R	R	–	R	R	R	R 1961 S revised	–	R	R
	20	S														

Table of abbreviations

R: Ratified

S: Signed but not yet ratified neither signed nor ratified

–: neither signed nor ratified

ECHR: Convention for the Protection of Human Rights and Fundamental Freedoms

ECPT: European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

ESC: European Social Charter (1961 or revised)

FCNM: Framework Convention for the Protection of National Minorities

ECRML: European Charter for Regional or Minority Languages

ECLS-G: European Charter of Local Self-Government

Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).

Reference to committee: Resolution 1115 (1997).

Draft resolution and draft recommendation unanimously adopted by the committee on 27 May 2008.

Members of the committee: Mr Serhiy **Holovaty** (Chairperson), Mr György Frunda (1st Vice-Chairperson), Mr Konstantin **Kosachev** (2nd Vice-Chairperson), Mr Leonid **Slutsky** (3rd Vice-Chairperson), Mr Aydin Abbasov, Mr Avet **Adonts**, Mr Pedro Agramunt, Mr Miloš **Aligrudić**, Mrs Meritxell Batet Lamaña, Mr Ryszard Bender, Mr József **Berényi**, Mr Aleksandër **Biberaj**, Mr Luc Van den Brande, Mr Jean-Guy **Branger**, Mr Mevlüt **Çavuşoğlu**, Mr Sergej Chelemendik, Ms Lise **Christoffersen**, Mr Boriss Cilevičs, Mr Georges **Colombier**, Mr Telmo Correia, Mr Valeriu Cosarciuc, Mrs Herta Däubler-Gmelin, Mr Joseph Debono Grech, Mr Juris Dobelis, Mrs Josette Durrieu, Mr Mátyás Eörsi, Mrs Mirjana Ferić-Vac, Mr Jean-Charles **Gardetto**, Mr József Gedei, Mr Marcel Glesener, Mr Charles Goerens, Mr Andreas **Gross**, Mr Michael **Hagberg**, Mr Holger Haibach, Ms Gultakin **Hajiyeva**, Mr Michael Hancock, Mr Davit **Harutyunyan**, Mr Andres **Herkel**, Mr Raffi Hovannisian, Mr Kastriot Islami, Mr Miloš Jevtić, Mrs Evguenia Jivkova, Mr Hakki **Keskin**, Mr Ali Rashid Khalil, Mr Andros Kyprianou, Mr Jaakko **Laakso**, Mrs Sabine **Leutheusser-Schnarrenberger**, Mr Göran **Lindblad**, Mr René van der Linden, Mr Eduard **Lintner**, Mr Younal Loutfi, Mr Pietro Marcenaro, Mr Mikhail Margelov, Mr Bernard **Marquet**, Mr Dick **Marty**, Mr Miloš **Melčák**, Mrs Assunta Meloni, Mrs Nursuna **Memecan**, Mr João Bosco Mota Amaral, Mr Theodoros Pangalos, Ms Maria Postoico, Mr Christos Pourgourides, Mr John Prescott, Mr Andrea **Rigoni**, Mr Dario Rivolta, Mr Armen Rustamyan, Mr Indrek Saar, Mr Oliver Sambevski, Mr Kimmo **Sasi**, Mr Andreas Schieder, Mr Samad **Seyidov**, Mrs Aldona Staponkienė, Mr Christoph Strässer, Mrs Elene **Tevdoradze**, Mr Mihai Tudose, Mr Egidijus Vareikis, Mr Miltiadis **Varvitsiotis**, Mr José Vera Jardim, Mrs Birutė **Vėsaitė**, Mr Piotr **Wach**, Mr Robert Walter, Mr David Wilshire, Mrs Renate Wohlwend, Mrs Karin S. **Woldseth**, Mr Boris Zala, Mr Andrej Zernovski.

NB: The names of those members present at the meeting are printed in bold.

See 23rd Sitting, 25 June 2008 (adoption of the draft resolution, as amended, and draft recommendation, as amended); and Resolution 1619 and Recommendation 1841.