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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1223 (2000)[1]

Honouring of obligations and commitments by Croatia

Parliamentary Assembly

1. The Assembly welcomes the significant progress Croatia has made towards honouring its commitments and obligations as a member state since its accession to the Council of Europe on 6 November 1996 and, in particular, since the parliamentary and presidential elections held at the beginning of 2000. Croatia has thus met most of the objectives and deadlines set out in Assembly Opinion No. 195 (24 April 1996) and in Assembly Resolution 1185 (29 April 1999):

1.1. Croatia has ratified all the Council of Europe conventions it had committed itself to, such as the European Convention on Human Rights and its Protocols Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 11, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Framework Convention for the Protection of National Minorities, the European Charter of Local Self-Government and the European Charter for Regional or Minority languages;

1.2. a constitutional revision is ongoing, aiming primarily at the abolition of excessive presidential powers and the establishment of parliamentary control over the executive;

1.3. amendments to the electoral law, adopted in October 1999, take into account most of the recommendations made by the Assembly in its Resolution 1185 (1999), in particular regarding revision of the special representational rights of Croatian citizens living abroad, multi-party representation on electoral committees at state and local level and accreditation of domestic, non-partisan, observers;

1.4. amendments to the Law on Local Self-Government and Administration, adopted in November 1999, take into account most of the suggestions made by the Congress of Local and Regional Authorities of Europe; their full implementation depends on further changes to be made to the Law on the System of Governance and the Law on the City of Zagreb; new legislation to strengthen further local and regional self-government in compliance with the European Charter of Local Self-Government is being prepared, with a view to adoption before the next nation-wide local elections scheduled for spring 2001;

1.5. amendments to the Law on the High Judicial Council, adopted in May 1999, take into account most recommendations made by Council of Europe experts; new amendments to the law are being prepared regarding primarily judicial appointment procedures; amendments are also being prepared to the law on courts, with a view to depoliticising the judiciary, and to other laws (such as: code of civil procedure, bankruptcy act, inheritance act, etc.) to increase the efficiency of the judiciary and reduce the heavy backlog of cases;

1.6. a new draft law on the Croatian Radio and Television (HRT) was sent to parliament on 1 June 2000: it has been positively assessed by Council of Europe experts, since it provides for the transformation of the HRT into a public service broadcaster and proposes the privatisation of the third channel in compliance with Assembly Resolution 1185 (1999); further changes to the draft have been proposed by the experts to ensure the independence of the HRT Council from political interference and avoid a complex organisational structure;

1. Assembly debate on 26 September 2000 (26th Sitting) (see Doc. 8823, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, co-rapporteurs: Mr Jaskiernia and Mrs Stoyanova). Text adopted by the Assembly on 26 September 2000 (26thSitting).

1.7. a new draft law on telecommunications, aiming at ensuring the independence of the Radio and Television Council, is being prepared by the government for submission to parliament in autumn this year following consultation with Council of Europe experts;

1.8. amendments to the criminal code abolishing the possibility for the Public Prosecutor to pursue ex officio criminal actions for defamation of high state officials passed first reading on 1 June 2000; the Constitutional Court also abolished provisions of the law on public information that had allowed for special "urgent court proceedings" in defamation actions against journalists;

1.9. two laws on minority rights, the law on education in the language and script of national minorities and the law on official use of the language and script of national minorities, were adopted on 11 May 2000: they have been welcomed by members of the national minorities in Croatia and representatives of the international community;

1.10. the Constitutional Court of Croatia has fully co-operated with the Venice Commission regarding participation of international advisers in the work of the court in minority cases: this exercise was successfully completed, according to the agreed schedule, at the end of 1999;

1.11. the Croatian authorities have fully co-operated with the Assembly's Monitoring Committee and its rapporteurs in the framework of the monitoring procedure.

2. As regards the honouring of commitments related to the consequences of the war, the Assembly commends the current President of the Republic, government and parliament for having radically improved within a few months Croatia's record regarding implementation of the Dayton and Erdut Agreements and having thus promoted stability and security in Southeastern Europe, notably as regards:

2.1. co-operation with the International Criminal Tribunal for the Former Yugoslavia;

2.2. co-operation with the international community and foreign non-governmental organisations acting in Croatia;

2.3. relations with Bosnia and Herzegovina: a fully transparent policy of respect for the independence and territorial integrity of Bosnia and Herzegovina has been pursued and proposals for an agreement between the two states on return and repossession of property have been elaborated;

2.4. return of refugees and displaced persons: this issue is no longer perceived as a political but as a merely financial one and several measures have been taken to facilitate return, such as:

a. the creation of a new interministerial structure – the "Co-ordination for Areas of Special State Concern" – to co-ordinate government programmes related to return and trust establishment;

b. the adoption of a Joint Declaration by the Croatian Foreign Minister and the Prime Minister of Republika Srpska (one of the two entities of Bosnia and Herzegovina) committing both sides to facilitate the return of 2 000 refugees within three months;

c. the publication and discussion with the international community of a report evaluating the implementation of the return programme for refugees and proposing measures to address the problems of repossession of property and provision of alternative accommodation;

d. the abolition of discriminatory provisions in legislation regarding access to reconstruction assistance, repossession of property and the provision of alternative or temporary accommodation;

e. the simplification of procedures for confirming citizenship status of returnees;

f. the establishment of a genuine dialogue with representatives of the Serb community and increased co-operation with the Joint Council of Municipalities in the Danube region;

g. the establishment of frequent contacts between government structures on return and local housing commissions; new regulations are being prepared to define the overall procedure for repossession of property, protect the rights of owners and temporary occupants of property to be returned to owners and allow for a more efficient operation of the housing commissions; amendments are also being prepared to the decree establishing the Agency for the Mediation of Real Estate Transactions ("Land Bank") to increase transparency;

h. the use of opportunities offered by the Stability Pact for Southeastern Europe to obtain funding for the return of refugees and reconstruction in areas of return.

3. The Assembly encourages the Croatian authorities to pursue their policy towards consolidation of democratic reforms, European integration and implementation of the Dayton and Erdut Agreements:

3.1. the government should elaborate and/or the parliament should adopt as a priority matter:

a. a new, integral constitutional law on the rights of national minorities in compliance with recommendations made by the Venice Commission;

b. further amendments to the constitution in order to extend to all persons within the jurisdiction of Croatia certain rights currently reserved to citizens, in compliance with recommendations made by Council of Europe experts;

c. further amendments to the electoral law to implement remaining recommendations contained in Assembly Resolution 1185 (1999) regarding minority voting and impartiality of the HRT during electoral campaigns;

d. the laws, amendments to laws and regulations referred to above in paragraphs 1. iv to viii and in paragraph 2. iv. g regarding local and regional self-government, independence and efficiency of the judiciary, freedom of the media, procedures on repossession of property and the work of the housing commissions and of the Land Bank, in compliance with recommendations made by Council of Europe experts and/or other representatives of the international community;

e. a thorough reform of the legislation governing property issues throughout the country (i. e. beyond the areas of special state concern), including the issue of occupancy/tenancy rights, in consultation with international experts;

3.2. the Croatian authorities should also take other measures to ensure:

a. prompt enforcement of decisions of all courts, including those of the Constitutional Court;

b. freedom of distribution of printed media on equal terms and on a commercial basis;

c. elimination of the negative effects of post-conflict legislation subsequently amended or abolished;

d. full and non-discriminatory implementation, at both central and local level, of laws regarding access to reconstruction assistance, repossession of property and the provision of alternative or temporary accommodation, as well as of other laws and administrative measures setting conditions to encourage sustainable return and improve inter-ethnic reconciliation; prompt and flexible implementation of the citizenship law;

e. transparent application of the amnesty law and impartial prosecution of war crimes, regardless of the ethnicity of the defendant; publication of all war crimes convictions in absentia since 1991; increased efficiency in the control made by the Ministry of Justice of whether charges on war crimes are pending against a person wishing to return (“clearance procedure”).

4. The international community, for its part, should keep its promises and ensure that financial assistance is granted rapidly to Croatia, which cannot and should not carry alone the economic burden of reconstruction and sustainable development in the areas of return. In this respect, the Assembly welcomes the projects of economic assistance recently approved in the framework of the Stability Pact for Southeastern Europe, other European Union programmes and the Council of Europe Development Bank.

5. In conclusion, the Assembly is of the opinion that Croatia has honoured its obligations and most of its commitments and that remaining commitments are in the process of being fulfilled. The Assembly therefore considers the current monitoring procedure as closed. It will carry out its post-monitoring dialogue with the Croatian authorities, through its Monitoring Committee, on the issues referred to in paragraph 3 above or any other issue arising from the obligations of Croatia as a member state of the Council of Europe, with a view to re-opening the procedure in accordance with Resolution 1115 (1997), if further clarification or enhanced co-operation should seem desirable.