Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1513 (2001)[1]
Final version

Honouring of obligations and commitments of Ukraine

Parliamentary Assembly

1. The Assembly refers to its Resolutions 1179 (1999), 1194 (1999), 1239 (2001) and 1244 (2001) and its Recommendations 1395 (1999), 1416 (1999), 1451 (2000) and 1497 (2001) on the honouring of obligations and commitments by Ukraine.

2. Notwithstanding a few positive steps taken by the Ukrainian authorities, notably the ratification on 4 April 2000 of Protocol No. 6 to the European Convention on Human Rights, following the ruling of the Ukrainian Constitutional Court that the death penalty is unconstitutional, the Assembly considers that the President, the Government and the Parliament (Rada) of Ukraine have failed to implement the commitments and obligations of Ukraine as a member state of the Council of Europe.

3. In this respect, the Assembly recalls the firm commitment of the Ukrainian delegation and the leaders of the parties and factions of the Rada that the commitments of Ukraine in the legislative field and listed by the Assembly in its Opinion No. 190 (1995) will now be fulfilled. These commitments include:

i. a framework act on the legal policy of Ukraine for the protection of human rights;

ii. a framework act on legal and judicial reform;

iii. a new criminal code and code of criminal procedure;

iv. a new civil code and code of civil procedure;

v. transformation of the role and functions of the prosecutor's office.

Furthermore Ukraine should finalise the interrupted ratification process of the European Charter for Regional or Minority Languages and ensure adequate protection for all minority groups in Ukraine.

4. The Assembly is concerned by the murders of journalists, repeated aggression against and continuing intimidation of journalists, members of parliament and opposition politicians in Ukraine, and the frequent and serious abuses of power by the Ukrainian executive authorities in respect of freedom of expression and of assembly.

5. Therefore the Assembly urges the Ukrainian authorities, notably the President, to put an end to the practice of intimidation and repression of opposition politicians and the independent press, and to take all necessary measures to discourage and curb attacks and threats against journalists and other media representatives. Moreover, it repeats its call on the relevant Ukrainian authorities to improve the general framework in which the media operate, as it is set out in paragraph 5 of Resolution 1239 (2001) on freedom of expression and the functioning of parliamentary democracy in Ukraine:

i. speedy and transparent investigation into all cases of violence against and the death of journalists;

ii. immediate abolishment of regulations and practices which allow for the closure, without judicial decision, of media outlets and the termination of broadcasting;

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1. Assembly debate on 26 April 2001 (14th Sitting) (see Doc. 9030, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteurs: Mrs Severinsen and Mrs Wohlwend). Text adopted by the Assembly on 26 April 2001 (15th Sitting).

iii. adoption without any further delay of amendments to the legislation concerning fines or damages for libel and the decriminalisation of libel;

iv. amending the Law on the National Television and Broadcasting Council in line with the expertise provided by the Council of Europe;

v. creation of equal conditions for the functioning of all media, namely by amending the 1997 Act on Government Support for the Media and Social Protection of Journalists;

vi. stopping practices which place pressure on the media through the leverages of printing and distribution;

vii. promotion of public service broadcasting;

viii. ratifying the European Convention on Transfrontier Television.

6. At the same time the Assembly notes that recently some steps have been taken by Ukraine with a view towards fulfilling the provisions of Resolution 1239 (2001):

– the decriminalisation of libel with the adoption of a new criminal code;

– since January 2001 no closures, without judicial decision, of media outlets, or instances of pressure on the media through the leverages of printing and distribution have been reported;

– on 13 April 2001 the President of Ukraine set up a working group to prepare the establishment of a network of public television and broadcasting;

– in January 2001 the Supreme Court of Ukraine recommended to the courts that “reasonable limits” be applied in the review of cases involving libel and defamation of character.

The Assembly reiterates its appeal to Ukraine to continue working towards the implementation of legal and other mechanisms so as to secure the free and unimpeded activity of Ukraine’s mass media.

7. The Assembly believes that only the respect for human rights, pluralist democracy and the rule of law, notably due legal procedures, genuine freedom of the press, of expression and of assembly without fear of reprisals – combined with a serious political dialogue – can help lead Ukraine out of the current political crisis. It calls on all parties involved in the crisis – political parties, parliamentary and extra-parliamentary opposition and the President – to assume their responsibilities and to engage in a meaningful political dialogue without delay but in full respect of each other’s democratic prerogatives. The Assembly, in this respect, urges the Ukrainian authorities to provide the democratic opposition with airtime on state television and radio channels immediately.

8. The Assembly expresses also strong support for attempts to reform the political process and strengthen civil society, to establish a genuine separation of and balance between executive, legislative and judicial powers, as well as a truly open, honest and accountable system of government.

9. The Assembly regrets that hitherto its previous resolutions, in particular Resolutions 1194 (1999) and 1239 (2001), have apparently not convinced the Ukrainian authorities of the need to take without delay a number of measures to meet Ukraine’s obligations and commitments as a member state. In accordance with its Resolution 1194 (1999) the Assembly decides therefore that, should no substantial progress in honouring these obligations and commitments be made by the opening of its June 2001 part-session, it shall consequently consider imposing sanctions against the Ukrainian parliamentary delegation in accordance with Rules 6 to 9 of its Rules of Procedure.

10. The Assembly recommends that the Committee of Ministers:

i. pay due attention to the position of the Parliamentary Assembly in respect of the honouring of the obligations and commitments by Ukraine;

ii. should no substantial progress be made by the opening of the Assembly’s June 2001 part-session, consider suspending Ukraine from its right of representation, in conformity with Article 8 of the Statute of the Council of Europe;

iii. intensify the co-operation programmes between the Council of Europe and Ukraine, specifically by searching for additional financial resources, notably for the implementation of the Action Plan proposed by the Secretariat, with a view to assisting the Ukrainian authorities in their efforts to effectuate the difficult transition to democracy and to secure fundamental rights and liberties, particularly as regards freedom of expression and the media.