Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1529 (2001)[1]

Honouring of obligations and commitments by Turkey

Parliamentary Assembly

1. The Assembly refers to its Resolution 1256 (2001) on the honouring of obligations and commitments by Turkey as a member state of the Council of Europe, in which:

1.1. it commends the Turkish authorities on the establishment – notwithstanding an economic crisis without precedent throughout the country – of the National Programme for the Adoption of the acquis communautaire, approved in March 2001 by the Turkish Government in the framework of the accession process to the European Union, and out of which Chapters 1.1 (Introduction) and 1.2 (Political Criteria) have been presented by the government as a programme for honouring the obligations and commitments of Turkey as a member state of the Council of Europe;

1.2. it welcomes progress made by the Turkish authorities since the start of the monitoring procedure in the following areas:

a. the amendments which have been made to the constitution;

b. the measures taken to improve the conditions of police custody, to eradicate torture and ill-treatment and to identify and efficiently sanction those who have committed such acts;

c. the recent decision of the Turkish authorities to authorise publication of the reports drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visits to Turkey in 1999, 2000 and January 2001;

d. the adoption of laws amending the Penal Code, the Law on Penal Procedures against Civil Servants and the Law on the Fight against Organised Crime;

e. the acceptance by the Turkish authorities of the need to reform their penitentiary system and the amendment of Article 16 of the Prevention of Terrorism Act;

f. creating awareness of the need for respect for human rights and fundamental freedoms, as well as measures taken by the Turkish authorities to improve or complement legislation in this field;

g. the return of tranquillity in south-eastern Turkey, the cease-fire announced by the PKK and the reduction of action by the Turkish armed forces to occasional security operations;

h. the increased freedom of association in Turkey;

i. the extension of the freedom of expression following adoption of the Law on the Postponement of Sentences and Trials in respect of Crimes Committed through Press and Broadcasting;

1. Assembly debate on 28 June 2001 (23rd Sitting) (see Doc. 9120, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, co-rapporteurs: MM. Bársony and Zierer). Text adopted by the Assembly on 28 June 2001 (23rd Sitting).

1.3. it expresses concern about a number of obligations where progress made cannot yet be considered to be substantial and the honouring of which requires further action by the Turkish authorities, in particular concerning:

a. as announced in the National Programme, revision of the constitution leading to the establishment of a certain parliamentary control over the Turkish National Security Council, to revision and completion of the system of protection of human rights and fundamental freedoms, to confirmation of the predominance of law and to reinforcement of control of the judiciary over all administrative acts;

b. an interpretation of constitutional provisions and other legal rules that would not prevent political parties from carrying out their normal functions and elected representatives from expressing freely their political opinions, with due respect to the principle of refraining from engaging in any activity or performing any act aimed at inciting violence or discrimination, at undermining parliamentary democracy or at destroying any of the rights and freedoms set forth in the European Convention on Human Rights;

c. pending a judgment of the European Court of Human Rights in the case of Mrs Leyla Zana and others, the legal possibilities of revising the prosecution procedures and subsequent sentences in respect of the former DEP parliamentarians imprisoned since that time;

d. the implementation of the measures taken to improve the conditions in police custody, to eradicate torture and ill-treatment, and to identify and efficiently sanction those who have committed such acts;

e. the implementation of the advice of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and immediate measures necessary to ensure that, in particular, prisoners in the F-type prisons spend a reasonable part of the day engaged in a programme of communal activities outside their cells;

f. the abolition of the death penalty and the signature and ratification of Protocol No. 6 to the European Convention on Human Rights;

g. the full enjoyment of the freedom of association in respect of organisations, and in particular organisations working legally for the protection of human rights in all parts of Turkey, and access of human rights organisations to prisoners;

h. the modification of Article 312 of the Penal Code and the revision of Article 8 of the Prevention of Terrorism Act which, in its present unclear wording, opens the door to arbitrary action by the state against individuals for “crimes of expression of thought”;

i. the execution of the judgment of the European Court of Human Rights in the Loizidou case;

1.4. it acknowledges that most of the concerns expressed in paragraph iii above have been taken into account by the drafters of Chapters 1.1 and 1.2 of the National Programme, but that these chapters reflect a delicate compromise between the different ruling political forces in Turkey and are therefore worded in a cautious way, as good intentions, with long and flexible deadlines for their implementation;

1.5. it resolves to pursue, in close co-operation with the Turkish delegation, the monitoring procedure with a view to advising and assisting the Turkish authorities concerned in their policy towards complying with Turkey’s obligations as a member state, and to assess further progress until the Assembly decides to close the monitoring procedure.

2. The Assembly recommends that the Committee of Ministers:

2.1. following its Interim Resolutions DH (99) 680, (2000) 105 and (2001) 80, pursue its action under Article 54 of the Convention for the Protection of Human Rights and Fundamental Freedoms to ensure compliance, by Turkey, with the judgment of the European Court of Human Rights in the case of Loizidou against Turkey;

2.2. step up the assistance of the Council of Europe in respect of Turkey:

a. by providing Council of Europe expertise on the need for revision of Article 312 of the Turkish Penal Code and Article 8 of the Prevention of Terrorism Act;

b. by assisting the Turkish authorities in the organisation of the following activities:

a seminar on improvement of the prison system in Turkey;

a seminar for police officers on respect for human rights in the exercise of their functions;

a seminar on the abolition of the death penalty; and

a seminar on multi-ethnic societies.