



Resolution 1363 (2004)¹

Functioning of democratic institutions in Georgia

Parliamentary Assembly

1. Following the events of 22 and 23 November 2003, Georgia has just effected its third change of head of state since its independence in 1991. For the first time, however, this alternation has been effected remarkably peacefully. The Parliamentary Assembly is pleased that none of the political forces present made use of violence and that they kept events under control.
2. The Assembly notes that both the Georgian population and the international community are placing high hopes in the new ruling coalition and its capacity to reform the country speedily and lastingly, and to bring it back to the path of compliance with democratic rules. These hopes must not be disappointed.
3. The Assembly intends to follow closely developments in the political situation in the country and expects the authorities to make tangible progress both in the preparation of the forthcoming parliamentary elections, so that these take place in full compliance with democratic standards and culminate in the free expression of the will of the Georgian people, and in a lasting improvement of the functioning of its institutions, so as to guarantee greater respect for the rule of law.
4. The Assembly expects the Georgian authorities to actively pursue a genuine and constructive dialogue with the Council of Europe and its Parliamentary Assembly and to speed up reforms in accordance with the obligations and commitments entered into by Georgia when it joined the Organisation four-and-a half years ago.
5. Where respect for pluralist democracy is concerned, the Assembly:
 - 5.1. shares the conclusion of the international observation mission that the presidential election and partial parliamentary elections of 4 January 2004 constitute significant progress over the previous elections and bring the country closer to its commitments and to international standards where democratic elections are concerned;
 - 5.2. acknowledges that the organisation of the election in a very short period of time required a considerable effort by both the authorities and the international community and deserves praise;
 - 5.3. acknowledges that the Georgian authorities, particularly the Central Election Commission, generally demonstrated a strong political will to organise the elections of 4 January 2004 appropriately and to make improvements to the electoral process;
 - 5.4. notes that fraud and irregularities were committed during the election of 4 January 2004, on a scale infinitely smaller than those committed at the time of the previous election of 2 November 2003, and that serious problems remain, especially in relation to the updating of the voters' lists, the composition of the election commissions, voting procedures and the failure to respect the secrecy of the vote.

1. Assembly debate on 28 January 2004 (5th Sitting) (see [Doc.10049](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteurs: Mr Eörsi and Mr Kirilov). Text adopted by the Assembly on 28 January 2004 (5th Sitting).



6. The Assembly considers that the parliamentary elections of 28 March 2004 are likely to be a genuine test of the Georgian authorities' capacity to organise truly democratic, free, fair, transparent and competitive elections, and a better indicator of Georgia's commitment to respecting the principles of pluralist democracy. It issues a warning to the authorities and calls on them to remedy without delay the shortcomings noted during the presidential election.

7. To this end, the Assembly asks the Georgian authorities to adopt without delay a number of measures, which must be fully implemented when the forthcoming parliamentary elections are held on 28 March 2004, in particular:

7.1. to amend the Electoral Code and all other electoral legislation and regulations, in full co-operation with the Council of Europe experts, and in particular with the European Commission for Democracy through Law (Venice Commission), so as to:

- a. modify the composition of the Central Election Commission and the election commissions at lower levels, in order to promote the principle of balanced, fair and equal representation of all political forces;
- b. simplify the voting procedures and fully guarantee the principle of the secrecy of the vote;

7.2. to revise the voters' lists, and create as soon as possible a single, centralised and computerised register of electors, and to put an end to the practice of registering voters' names on supplementary lists on election day itself, a practice which entails a considerable risk of fraud

8. The Assembly also declares its concern about the current reshaping of Georgian political life and the risk of the disappearance of all parliamentary opposition after the forthcoming elections and, in consequence, of any true institutional counterweight. If the elections were to culminate in the sole representation in Parliament of the ruling coalition, the Assembly might fear for the future of democratic pluralism in Georgia. It therefore recommends that the Georgian authorities amend the constitution and the corresponding legislation so as to reduce the election threshold in the proportional representation system from 7% to at least 5%.

9. Where the functioning of institutions and respect for the rule of law are concerned, the Assembly:

9.1. declares its extreme concern about the excesses which for years accompanied the autocratic exercise of power in Georgia: failure to respect the rule of law, the prevalence of nepotism and cronyism, endemic and general corruption at every level of government and society, failure to implement legislation and the weakness of representative institutions;

9.2. expects the authorities to put a stop to these excesses and return to institutional functioning which complies with the standards, principles and values of the Council of Europe;

9.3. takes note of the Georgian authorities' wish to speedily make a number of institutional changes, through constitutional and parliamentary reform, in order to rationalise relations between the executive and the legislature and to increase the efficiency of governmental and parliamentary activity;

9.4. urges the Georgian authorities to request as soon as possible the assistance and expert opinion of the European Commission for Democracy through Law (Venice Commission) on draft constitutional amendments, without awaiting their complete finalisation;

9.5. states its willingness to help the Georgian Parliament to revise its rules of procedure and to restructure and reorganise the work of its committees

10. As far as the honouring of Georgia's commitments with regard to the Council of Europe is concerned, the Assembly points out that in [Resolution 1257 \(2001\)](#) on the honouring of obligations and commitments by Georgia, it stated that Georgia was far from honouring all its obligations and commitments as a member state. It therefore expects the authorities to change their attitude radically and to submit to the Assembly a precise timetable for the implementation of its commitments, and more particularly

10.1. where the fight against corruption is concerned, the Assembly urges the Georgian authorities to implement without delay the recommendations made to it by the Council of Europe's Group of States against Corruption (GRECO) and to rapidly ratify the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime;

10.2. where reform of law enforcement agencies is concerned, the Assembly urges the authorities to involve the Council of Europe closely in this and to rapidly request its expert opinion on the draft legislation in preparation, particularly that relating to the police and public prosecutor's office; it also expects the authorities to take fully into account previous and future Council of Europe recommendations and expert opinions on the Code of Criminal Procedure

11. Finally, the Assembly expresses extreme concern about the risks of internal destabilisation in Georgia and about the continuing threats to the country's territorial integrity. It declares its attachment to effective respect for the rule of law throughout Georgian territory. It calls on the parties involved to actively re-engage in dialogue.

12. While acknowledging the outstanding mediation role played by the Russian Federation, and particularly by its Minister for Foreign Affairs, Igor Ivanov, in the peaceful settlement of the political crisis, on 23 November 2003, the Assembly calls upon the Russian authorities to honour the commitment they made at the Organisation for Security and Co-operation in Europe (OSCE) Istanbul Summit in 1999 to withdraw their troops from Georgia and to close their military bases. It recalls in this respect its [Recommendation 1580 \(2002\)](#) on the situation in Georgia and its consequences for the stability of the Caucasus region.

13. Due to the extraordinary character of the transition that has taken place in Georgia, the Assembly acknowledges the need to negotiate with the new authorities of Georgia new deadlines under which they will be obliged to fulfil the commitments which Georgia undertook upon its accession to the Council of Europe, and to review those commitments.