



## Resolution 1415 (2005)<sup>1</sup>

# Honouring of obligations and commitments by Georgia

Parliamentary Assembly

1. A year after coming into power, the new Georgian authorities continue to demonstrate an unyielding resolve to carry out far-reaching political, legal, social and economic reforms. They continue to enjoy the broad support of the general public and the international community. The authorities' achievements so far, in particular the peaceful reintegration of Adjara, are positive developments, but the authorities should maintain, and even accelerate, the pace of reforms in accordance with Council of Europe standards and principles. The Parliamentary Assembly welcomes the progress the Georgian authorities have made in the fight against corruption, the reform of police forces and the protection of religious freedom. It also welcomes the election of the new ombudsman; the creation of civil monitoring groups at police stations throughout the country; the harmonisation of media legislation with Council of Europe standards; the full decriminalisation of libel; and the steps taken to transform state television into a public broadcasting service.

2. The government's efforts to carry out reforms are conducted against the background of persisting instability in South Ossetia and Abkhazia. The co-rapporteurs fully understand the problems the authorities are facing because of the unresolved conflicts with the two breakaway regions. They urge the Georgian leadership to maintain their restrained approach and continue to seek a peaceful political solution. At the same time, it is essential to preserve the momentum of political and economic reforms. A successful, open, tolerant and democratic Georgia is the best asset in the efforts to peacefully resolve the confrontation with the present South Ossetian and Abkhaz regimes and restore the country's territorial integrity.

3. In this regard, the Assembly is encouraged by President Saakashvili's initiative to propose a peace plan for the two breakaway regions. It calls on the Georgian authorities to negotiate its terms with representatives of South Ossetia and Abkhazia, who should seize every opportunity to end the two long-standing conflicts and their damaging consequences for all the citizens of Georgia. The Assembly also calls on the Russian Federation to do its utmost to support the peace process and the restoration of the territorial integrity of Georgia.

4. Full compliance with membership obligations will help Georgia to reinforce its political stability and democratic security. The list of remaining commitments contains obligations related to virtually every major challenge Georgia is facing today, from the fight against corruption, the protection of human rights and rights of minorities and the reform of the judiciary, to the efforts to restore the territorial integrity of Georgia through peaceful means.

5. In [Resolution 1363](#) adopted in January 2004, the Parliamentary Assembly agreed to reconsider deadlines for Georgia's commitments to the Council of Europe as a sign of understanding and support to the new authorities. These deadlines are listed in paragraph 9 below. It should however be clear from the outset that there will be no subsequent negotiations and extensions and that the Assembly expects the Georgian Government to honour their promises fully and in time.

6. The extent of corruption and lawlessness in Georgia under the previous government resulted in the extraordinary character of the transition – the Rose Revolution. A year later, it is time to normalise the situation and bring the political process firmly back to the country's institutions. The post-revolutionary

---

1. Assembly debate on 24 January 2005 (1st Sitting) (see [Doc. 10383](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs : Mr Eörsi and Mr Kirilov). Text adopted by the Assembly on 24 January 2005 (1st Sitting).



situation should not become an alibi for hasty decisions and neglect for democratic and human rights standards. The priority is to build solid and lasting foundations for a stable, prosperous and democratic Georgia for the generations to come.

7. The Rose Revolution and the two subsequent elections, viewed on the whole as free and fair by the international observers, resulted in a very strong government, which may be an asset in dealing with the country's political, economic and security problems, provided that a strong government is accompanied by an effective system of checks and balances. This is not yet the case. Today, Georgia has a semi-presidential system with very strong powers of the president ; a weak parliamentary opposition; a weaker civil society; a judicial system which is not yet sufficiently independent and functioning; underdeveloped or non-existent local democracy; a self-censored media and an inadequate model of autonomy in Adjara.

8. The Assembly therefore asks the authorities to create conditions in which a strong and efficient system of democratic checks and balances will emerge and begin to function. They should have a positive attitude to dialogue, be open to advice and also be prepared to engage in discussions on issues that have aroused public criticism. In the present circumstances this is one of the key requirements for the success of the reforms.

9. The Assembly, after having consulted the Georgian authorities, sets the following deadlines for the compliance with commitments and obligations and asks Georgia to :

*with regard to Council of Europe conventions :*

- a. *sign and ratify the European Charter for Regional and Minority Languages and the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, before September 2005 ;*
- b. *ratify the revised European Social Charter and the Framework Convention for the Protection of National Minorities, before September 2005 ;*

*with regard to constitutional issues :*

- a. *commit itself to the creation of a second parliamentary chamber to provide for the representation of its autonomous regions at state level, once South Ossetia and Abkhazia are politically and administratively reintegrated into Georgia ;*
- b. *revise the recently adopted autonomous model for Adjara in the context of territorial and administrative reform of Georgia, in line with the opinion of the Venice Commission ;*

*with regard to the Meskhetian population: create, without any further delay, legal, administrative and political conditions for the start of the process of their repatriation with a view to its completion by 2011 ;*

*with regard to the 1990-94 conflicts :*

- a. *adopt a legal framework for the restitution of ownership and tenancy rights or compensation for the property lost during these conflicts, by September 2005 ;*
- b. *ensure that internally displaced persons enjoy equal rights with the rest of the population, particularly when it comes to employment and housing ;*

*with regard to the functioning of the judiciary and the police :*

- a. *complete the reform of the judicial system, the public prosecutor's office and the police, in strict compliance with Council of Europe standards and in close co-operation with the Organisation's experts ;*
- b. *before the entry into force of the recent constitutional amendments regarding the appointment of judges of the Supreme and the Constitutional Courts of Georgia, consult Council of Europe experts in order to ensure their compatibility with Council of Europe standards and principles. The Assembly is particularly concerned that some of the proposed changes, in particular the exclusive right of the President to nominate candidates for judges combined with the provision that all sitting judges will be dismissed upon entry into force of the new rules, but also the possibility that judges may serve two consecutive instead of one single mandate, may have a negative effect on the independence of these crucially important judicial institutions ;*

*with regard to the fight against corruption : intensify efforts to eradicate this phenomenon through long-term structural measures, in line with the GRECO recommendations and fully respecting the rule of law and human rights ;*

*with regard to the rule of law and human rights :*

- a. *critically review the present practice of the “plea bargaining” system which – in its present form – on the one hand allows some alleged offenders to use the proceeds of their crimes to buy their way out of prison and, on the other, risks being applied arbitrarily, abusively and even for political reasons ;*
- b. *consider taking urgent measures to alleviate the dramatic overcrowding in prisons and pre-trial detention centres, including through amnesty for some vulnerable categories of prisoners, such as ill, young and elderly offenders, expanded criteria for, and use of, non-custodial sentences, and broader application of alternatives to pre-trial detention ;*
- c. *eradicate the “culture of violence” which continues in Georgian prisons and pre-trial detention centres and has included incidents of torture and ill-treatment by law-enforcement officers, through effective preventive measures, systematic investigation of allegations, including timely medical examination, and forceful sanctioning of proven incidents ;*
- d. *immediately eradicate all forms of torture.*

10. The Assembly recalls that the decision to reconsider these deadlines for Georgia’s commitments, taken in January 2004, was a result of the extraordinary events that occurred in the country. Consequently, this decision should in no way be considered as a precedent for reconsidering deadlines set by the Assembly in its opinions concerning the accession of other member countries.

11. In order to consolidate the system of democratic checks and balances, the Assembly asks the Georgian authorities to review the constitutional changes of February 2004, by taking into account the opinion of the Venice Commission, especially with regard to the strong powers of the President. Before the next parliamentary elections, they should also lower the electoral threshold of 7% in order to create conditions for a pluralist and genuinely representative parliament.

12. The Assembly finally encourages the Georgian authorities to intensify their efforts to resolve the outstanding conflicts with South Ossetia and Abkhazia in a peaceful and political manner. At the same time, it calls on the Russian Federation to use its substantial influence to back these efforts and help to create conditions to guarantee the broad autonomy of South Ossetia and Abkhazia and to restore the territorial integrity of Georgia. The Assembly welcomes the recent initiative for bilateral parliamentary dialogue between Russian and Georgian authorities and offers its good offices to help this initiative to bear fruit.

13. The Assembly resolves to continue its monitoring procedure and to review Georgia’s compliance with its commitments and obligations in October 2005.