



## Resolution 1455 (2005)<sup>1</sup>

# Honouring of obligations and commitments by the Russian Federation

Parliamentary Assembly

1. The Russian Federation joined the Council of Europe on 28 February 1996. Upon accession, it committed itself to respect its general obligations under the Statute of the Council of Europe, namely pluralist democracy and respect for the rule of law and for human rights and fundamental freedoms of all persons under its jurisdiction. The Russian Federation also agreed to comply, within set deadlines, with a number of specific commitments listed in the Assembly [Opinion No. 193 \(1996\)](#).
2. In the last 15 years, the Russian Federation has undergone fundamental changes. The Assembly's last monitoring report and [Resolution 1277 \(2002\)](#), adopted in April 2002, welcomed the undoubted progress made by Russia towards the rule of law and democracy, as well as the significant efforts made since accession towards honouring its obligations and commitments.
3. In the past three years, the Russian Federation has adopted a new code of criminal procedure and a law on alternative military service, substantially decreased the number of inmates in penitentiary institutions, signed the Convention on the Transfer of Sentenced Persons (ETS No. 112), ratified a border treaty with Lithuania and signed one with Estonia. During the same period, however, there has been very little progress regarding the other outstanding commitments, including those related to the formal abolition of the death penalty, the withdrawal of Russian troops from Moldova and the obligation to bring to justice those found responsible for human rights violations, notably in relation to events in Chechnya.
4. The period since the last monitoring report was also marked by an effort by the Russian authorities to deal with a number of serious problems which represented – and in some cases continue to represent – a threat to the political stability, economic progress and the normal functioning of democratic institutions in the country. These problems included the persisting terrorist threat linked to the conflict in the North Caucasus, obscure and irregular privatisations which resulted in an oligarchic control over many of Russia's economic assets and resources, as well as allegations of corruption against some federal governors who were not accountable either to the federal authorities or to the people who elected them.
5. The Parliamentary Assembly fully supports the Russian authorities in their efforts to deal with these problems and to improve the efficiency and the accountability of Russia's political and administrative system. It fully recognises the right of the Russian authorities to carry out reforms adapted to the economic, political, administrative and historic realities in Russia. However, the Assembly also believes that the Russian authorities should opt for solutions which are in line with the Council of Europe's legally and politically binding standards and principles.
6. The Assembly considers the package of reforms, introduced in the autumn of 2004 with a view to reinforcing "the vertical of power", to be a cause for considerable concern as it in many respects may undermine the system of checks and balances indispensable for the normal functioning of any democracy. In order for democracy to function properly, the power must not only be vertically reinforced but also horizontally shared.

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1. Assembly debate on 22 June 2005 (20th Sitting) (see [Doc. 10568](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), Co-rapporteurs: Mr Atkinson and Mr Bindig). Text adopted by the Assembly on 22 June 2005 (21st Sitting).



7. The Assembly is concerned that recent changes to the legislation concerning the elections of the State Duma and the organisation of political parties will severely restrict political competition. The significantly higher electoral threshold (7%), the prohibition of electoral coalitions and the reduction, from four to two, of the minimum number of parties to be represented in the lower chamber, as well as new, restrictive rules for parties entitled to contest State Duma elections, will significantly raise the entry barrier to the parliament, in clear favour of the parties already represented in the current State Duma.

8. Similarly, changes providing the President with a decisive influence in the election of regional governors will affect the composition of the upper house of the Russian Parliament – the Council of the Federation – which is responsible for controlling the performance of the federal government and the President. Under the new legislation, half of the council members will be appointed by the regional governors who are themselves selected – and can be at any time dismissed – by the President himself. Such a situation is clearly not compatible with the basic democratic principle of the separation of power between legislative and executive bodies.

9. The Assembly is concerned that recent proposals to put the appointments, dismissals and disciplinary procedures regarding judges and judicial administration under the control of the executive may undermine prospects for an independent and impartial judiciary in the Russian Federation.

10. The recent creation of a “public chamber” entrusted with “the co-ordination of interests” between citizens, non-governmental organisations and public authorities should be critically assessed. It is indeed difficult to understand why a new body had to be set up to fulfil a role normally carried out by a democratically elected pluralist parliament on the one hand, and a genuinely independent freely operating civil society on the other.

11. Assembly delegations observed the parliamentary and presidential elections, in December 2003 and March 2004 respectively, and in both cases strongly criticised biased media coverage and the use of administrative resources in favour of the incumbent President and his political allies. The Assembly considers that the lack of pluralism and impartiality with regard to the broadcasting media is an insurmountable obstacle for the conduct of genuinely free and fair elections and for the normal functioning of democracy as a whole.

12. The Assembly therefore urges the Russian authorities to improve the conditions for the normal functioning of pluralist democracy and, in this respect, to:

*strengthen legal, administrative and political conditions in which a democratically elected and genuinely pluralist parliament will be able not only to support but also to control the executive power;*

*review the recently adopted legislation on the elections of regional governors inasmuch as it affects the composition and the independence of the upper house of the Russian Parliament, in order to ensure full compliance with the principle of the separation of powers;*

*pursue the objectives behind the setting up of the public chamber by creating proper administrative, fiscal and political conditions for the normal functioning of Russian civil society;*

*create conditions for pluralist and impartial broadcasting media by:*

*a. establishing an independent public service broadcaster and an independent regulatory authority for the broadcasting sector in line with Council of Europe standards;*

*b. improving the conditions for the normal functioning of private nation-wide broadcasting media, which must be free of state interference;*

*immediately end the harassment and intimidation of members of civil society critical of the authorities and in particular in the journalistic, scientific and environmentalist communities, which are subject to abusive application of defamation and state secret laws.*

13. With regard to the rule of law and the protection of human rights, the Assembly urges the Russian authorities to take the following measures:

*with regard to the abolition of the death penalty, immediately ratify Protocol No. 6 (ETS No. 114) to the European Convention on Human Rights (ETS No. 5). The Assembly recalls that the original deadline for the respect of this commitment expired in 1999 and that other countries which failed to respect this key commitment have been exposed to sanctions;*

*with regard to the conflict in the Chechen Republic, comply with the recommendations contained in [Resolution 1403 \(2004\)](#) and notably take effective action to put an immediate end to the ongoing “disappearances”, torture, arbitrary detentions, incommunicado detention in illegal and secret detention*

*facilities, and unlawful killings, bring to justice those found responsible for human rights violations, seek to end the conflict by peaceful means, strictly respect the provisions of international humanitarian law, prosecute any attempt to intimidate and harass human rights activists and applicants to the European Court of Human Rights, implement the recommendations contained in the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and consider their publication;*

*unconditionally co-operate with the European Court of Human Rights, refrain from hindering in any way the effective exercise of the right of individual petition to the Court and speedily the judgment in Ilascu and Others;*

*with regard to ill-treatment and deaths in the armed forces outside military conflicts, apply a zero-tolerance approach to the continuously endemic problem of hazing, through educational programmes for officers, and systematic, credible and transparent investigation and prosecution of abuses;*

*with regard to the recently adopted law on alternative military service, revise it in order to change its disproportionate character and bring it in line with European practice;*

*increase efforts to fight religiously, ethnically and racially motivated violence and discrimination, improve in particular the situation of those Meskhetian Turks wishing to stay in the Krasnodar region and investigate and punish all proven cases of harassment and discrimination;*

*guarantee the exclusion of any legal, administrative and fiscal discrimination against so-called non-traditional confessions and bring the implementation of the federal law on freedom of conscience and religious associations in line with Council of Europe standards;*

*pursue reforms in the field of the judiciary in strict compliance with Council of Europe standards in order to effectively eradicate any doubts on the fairness and independence of the justice system in Russia, raised, inter alia, in the context of the trials against Yukos executives;*

*continue to reform the Prokuratura in line with relevant European standards and the Venice Commission [Opinion No. 340/2005](#) adopted on 10 to 11 June 2005, in particular with regard to the extensive general oversight powers, and withdraw the reservation made to Article 5 of the European Convention on Human Rights;*

*with regard to the law on the Federal Security Service:*

- a. *revise the law on the Federal Security Service in order to bring the scope of its investigative powers and law enforcement prerogatives in line with Council of Europe principles and standards and thus comply with the commitment for which the initial deadline expired in February 1997;*
- b. *transfer the responsibility for Lefortovo and all other pre-trial detention centres currently administered by the Federal Security Service to the Ministry of Justice without any further delay;*

*with regard to the European Charter for Regional or Minority Languages (ETS No. 148), ratify it without further delay and thus comply with the commitment for which the initial deadline expired in February 1997;*

*with regard to the European Social Charter (ETS No. 163) and the Convention on the Transfer of Sentenced Persons, ratify them as soon as possible.*

14. As regards Russia's relations with neighbouring states and other Council of Europe states in the region, whilst welcoming the recent agreement on the closure of the remaining Russian military bases in Georgia, the Assembly urges the Russian authorities to take the following measures:

*with regard to the withdrawal of the remaining Russian military forces and their equipment from the territory of Moldova, carry out this withdrawal, which should have been completed by October 1997, without any further delay;*

*with regard to treating neighbouring states and other countries in the region as zones of special influence, denounce as wrong the policy of the "near abroad", constructively contribute to the resolution of open issues and cease with activities, such as the issuing of Russian passports to inhabitants of the Georgian regions of Abkhazia and South Ossetia, which may – directly or indirectly – undermine these countries' sovereignty and territorial integrity;*

*co-operate with the Georgian authorities in order to create conditions for the voluntary return of Meskhetian Turks to the regions from which they were forcefully deported;*

*as regards the compensation for those persons deported from the occupied Baltic states and the descendants of deportees, as stated in [Opinion No. 193 \(1996\)](#), paragraph 7.xii, to settle these issues as quickly as possible;*

*complete work on signing and ratifying the border agreement with Latvia;*

*facilitate the consultation of archives kept in the Russian Federation, as stated in [Opinion No. 193 \(1996\)](#), paragraph 10.xv;*

*settle rapidly all issues related to the return of cultural property claimed by Council of Europe member states, as stated in [Opinion No. 193 \(1996\)](#), paragraphs 10.xii and xiv;*

*with regard to relations with Belarus, make any political or financial assistance to the Government of Belarus conditional on the respect of the human rights and civil liberties of the people of Belarus.*

15. The Assembly is encouraged by the recent statements by the Russian delegation promising progress on some outstanding commitments. However, it wishes to stress that the Russian authorities should not only significantly accelerate the pace of compliance with the remaining commitments but also adjust the direction of some of the recent political, legislative and administrative reforms. This is particularly important with regard to changes affecting the normal functioning of pluralist democracy, which requires the organisation of free and fair elections, guaranteeing appropriate rights to the opposition, accountability of the executive power and the independence of the media.

16. Against this background, the Assembly resolves to pursue its monitoring of the honouring of obligations and commitments by the Russian Federation until it receives evidence of substantial progress, particularly with regard to the issues mentioned in this resolution.