Parliamentary Assembly
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CONSEIL DE L'EUROPE

Resolution 1477 (2006)[1]

Implementation of Resolution 1415 (2005) on the honouring of obligations and commitments by Georgia

Parliamentary Assembly

1. In its Resolution 1415 (2005), the Parliamentary Assembly reconsidered the deadlines for the fulfilment of Georgia's obligations and commitments to the Council of Europe in order to take into account the extraordinary circumstances resulting from the Rose Revolution. The Assembly made it clear that this move was exceptional and that there would be no further extensions of the deadlines. Two years after the Rose Revolution, it is now time for the new authorities to keep their promises.

2. The Assembly notes that some specific commitments have been fulfilled and that, in general, large-scale and long-term reforms have been set on the right track. The authorities are continuing to demonstrate a clear resolve to build a stable and modern European democracy and to better integrate the country into European and Euro-Atlantic structures. The post-revolutionary euphoria has given way to more pragmatism; the hasty, sometimes even chaotic initial approach to reforms is very gradually being replaced by a clearer focus on priorities and by a better-defined strategy.

3. However, most reforms are only at their very beginnings and major challenges still lie ahead. The ambitious work which has been undertaken in order to bring legislation in line with European standards still has to produce concrete results in most areas. The implementation of reforms will be just as important and the authorities will have to demonstrate, at every step, that their solutions to overcome the inevitable problems and obstacles along the way fully abide by the principles of democracy, the rule of law and respect for human rights.

4. With regard to the Council of Europe legal instruments that Georgia had to sign and/or ratify before September 2005, only the revised European Social Charter (ETS No. 163) was ratified within the set deadline (on 22 August 2005) and the Framework Convention for the Protection of National Minorities (ETS No. 157) was ratified by parliament with a slight delay, on 13 October 2005. The European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) has been signed but not yet ratified. Regretfully, the procedure for signing and ratifying the European Charter for Regional or Minority Languages (ETS No. 148) has only just started.

5. With regard to the commitments which concern long-term reforms, Georgia deserves praise for the first tangible results in the fight against corruption and the reform of the police, as well as for its efforts to improve economic performance and, consequently, to gradually improve the living conditions of the population. The Assembly welcomes the adoption, in co-operation with the Council of Europe, of a strategy and an action plan for the fight against corruption and the creation of the State Commission on Decentralisation in the field of local self-government. Georgia has also undertaken encouraging steps in order to develop a new generation of magistrates, to rationalise the courts' structure, to improve the rights of detainees through changes in the Code of Criminal Procedure and to eliminate torture and generally improve conditions in prisons and pre-detention centres. It has started the operation of public service broadcasting catering for the needs and interests of the entire population. The work of the ombudsman has produced useful results.

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1. Assembly debate on 24 January 2006 (3rd Sitting) (see Doc. 10779, 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 2006 (3rd Sitting).

6. At the same time, the concerns expressed in Resolution 1415 (2005) that the strong system of government is not accompanied by efficient checks and balances are still valid. Although the ruling party no longer enjoys an overwhelming majority in parliament, as inevitably some centrifugal forces have appeared within its ranks, the opposition is still weak and has not been able to come up with valid programme alternatives. Most reforms appear to be carried out by a narrow circle of like-minded leading politicians, rather than by a broad configuration of people reflecting all the rich potential of the nation. The media are financially weak and still lack the democratic culture which would allow them to credibly perform their role of democratic watchdog.

7. Two years after coming to power, the Georgian authorities still enjoy high popular support and benefit from a broad public consensus over the objectives and goals of the democratic transition. The people's trust must not be betrayed. In a country which is emerging from decades of political hypocrisy and manipulation, any failure to deliver on promised reforms can easily result in mistrust and questioning of these same reforms, especially by the most heavily affected layers of the population. The authorities cannot afford any unnecessary delays and obstacles which could be caused by nostalgic or revengeful attitudes; they should therefore be careful to always match words and deeds and to be open to dialogue and criticism.

8. The Assembly is aware that full normalisation of the situation in Georgia is impossible without reaching a peaceful and democratic settlement of the conflicts in the breakaway regions of Abkhazia and South Ossetia. It commends the President's efforts to push forward his peace initiative, but at the same time is extremely worried that no real progress has been achieved on the ground and in the ongoing negotiations. All interested parties in the conflict, in particular the Russian Federation, must demonstrate their commitment, in principle and in practice, to a peaceful and democratic solution with full respect of the territorial integrity of Georgia.

9. In conclusion, Georgia's progress over the last year can be regarded generally as encouraging but it is still only a first step towards meeting its obligations and commitments. The recommendations to the Georgian authorities contained in the present resolution are therefore similar or stem from those given in Assembly Resolution 1415 (2005). It is worth noting that the greatest progress has been achieved in fields where co-operation with the relevant Council of Europe bodies has been the strongest.

10. The Assembly therefore calls on the Georgian authorities to:

10.1. with regard to Council of Europe conventions, without any further delay, ratify the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and sign and ratify the European Charter for Regional or Minority Languages;

10.2. with regard to the functioning of democratic institutions:

10.2.1. review the constitutional changes of February 2004, by taking into account the opinion of the European Commission for Democracy through Law (Venice Commission), especially with regard to the strong powers of the President;

10.2.2. ensure that the next local elections, scheduled for October 2006, are free and fair, in full compliance with Council of Europe standards; improve the state of the electoral lists beforehand;

10.2.3. before the next parliamentary elections, lower the 7% electoral threshold so that it is not higher than 5% and ensure that the composition of the electoral committees at all levels guarantees their proper and impartial functioning;

10.2.4. adopt and ensure proper implementation of the law on transparency of party funding;

10.2.5. maintain the commitment to create a second parliamentary chamber, providing for the representation of its autonomous regions at state level, once South Ossetia and Abkhazia are politically and administratively reintegrated into Georgia;

10.2.6. make necessary legal provisions to ensure that the status of Adjaria is part of a comprehensive approach to Georgia's regions which strengthens their powers and sends a positive signal to the breakaway regions of South Ossetia and Abkhazia;

10.2.7. speed up the local government reform by:

10.2.7.1. adopting the legislative package including core legislation on local self-government and other related laws according to the timetable agreed with Council of Europe experts, after careful analysis of all the issues at stake and appropriate consultation with all stakeholders;

10.2.7.2. implementing the administrative and territorial reform of Georgia but only after the concept of the reform has been revised in accordance with the recommendations of the Council of Europe;

10.2.7.3. giving real authority and the necessary means to the State Commission on Decentralisation to lead the preparation and implementation of the decentralisation strategy;

10.2.7.4. following the recommendations of the Venice Commission relating to the election of the Tbilisi City Council and Mayor;

10.3. with regard to the Meskhetian population, pursue the work of the State Commission on the repatriation, seek actively international assistance and speed up the adoption of relevant legislation in order to create conditions for the repatriation process with a view to its completion by 2011; implement fully the recommendations set forth in Assembly Resolution 1428 (2005) on the situation of the deported Meskhetian population;

10.4. with regard to the 1990-94 conflicts:

10.4.1. adopt without further delay a legal framework for the restitution of ownership and tenancy rights or compensation for the property lost during these conflicts;

10.4.2. ensure equal rights for internally displaced persons, along the lines of Assembly Recommendation 1570 (2002) on the situation on refugees and displaced persons in Armenia, Azerbaijan and Georgia;

10.5. with regard to the rule of law:

10.5.1. complete the reform of the judicial system, the Bar, the Office of the Prosecutor General and the police in full compliance with European democratic standards and in close co-operation with the Council of Europe experts;

10.5.2. guarantee a fully transparent and democratic system of replacement of judges and ensure that the new generation of magistrates is independent and highly professional; ensure the successful start and functioning of the High School of Justice;

10.5.3. ensure constitutional and legislative guarantees for the independence of the members of the Supreme Court and the Constitutional Court; review, in consultation with the Council of Europe, the legislation allowing judges of the Supreme Court and the Constitutional Court to resign voluntarily after, respectively, three and five years in office against life payment of their salaries and find more appropriate and dignified ways of solving human resources issues in these two bodies;

10.5.4. adopt a new code of criminal procedure in co-operation with the Council of Europe;

10.5.5. pursue the fight against corruption, implement all recommendations of the Group of States against Corruption (GRECO) and ratify the Council of Europe Criminal Law Convention on Corruption (ETS No. 173); step up work aimed at building a culture and ethics of civil service;

10.6. with regard to human rights:

10.6.1. implement the recommendations of the Council of Europe on the compatibility of Georgian legislation with the provisions of the European Convention on Human Rights, in close co-operation with the Organisation's experts;

10.6.2. ensure that the newly-built detention facilities and changes in the criminal legislation will solve the issue of overcrowding in prisons and pre-trial detention centres and consider supplementary measures, where appropriate;

10.6.3. build on first steps taken to eliminate the "culture of violence" and torture in prisons and pre-trial detention centres, urgently adopt further necessary measures to meet this objective, with special attention to the regions of Georgia outside the capital, in particular in order to secure prompt, independent and thorough investigation of all allegations of torture and ill-treatment and apply a policy of zero tolerance to impunity;

10.6.4. concerning freedom of expression and information:

10.6.4.1. revise the legislation to ensure that any fines imposed for defamation are reasonable in quantum; that the presumption of innocence of suspects is guaranteed in media coverage; that media ownership is transparent and governed by democratic rules;

10.6.4.2. eliminate instances of obstruction of access to information for political or administrative reasons;

10.6.4.3. ensure the best quality of initial and lifelong training for media professionals;

10.6.4.4. complete without any delay the transfer of property to the public service broadcaster and guarantee its financial sustainability and political independence;

10.6.5. grant all the necessary political and financial independence to the office of the Public Defender (Ombudsman) and consider broadening its powers;

10.7. commit themselves to a peaceful solution of the conflicts in Abkhazia and South Ossetia, in the interest of all parties concerned, of regional stability and in full respect of international law.

11. The Assembly calls on all member states of the Council of Europe to provide the necessary financial resources for the successful implementation of the Committee of Ministers' Action Plan for Georgia.

12. The Assembly further calls on all member states of the Council of Europe to become actively involved in the search for a peaceful solution to the conflicts in the breakaway regions of Abkhazia and South Ossetia, including by discussing the most appropriate framework for negotiations and for ensuring peace, law, order and respect for human rights on the ground.

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