Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1538 (2007)[1]

Honouring of obligations and commitments by Albania

Parliamentary Assembly

1. Albania joined the Council of Europe on 29 June 1995. Upon accession, Albania accepted the statutory obligations incumbent on all member states of the Council of Europe. It also entered into a number of specific commitments which it agreed to honour within specified deadlines listed in Assembly Opinion No. 189 (1995).

2. The last monitoring report examined by the Parliamentary Assembly and Resolution 1377 (2004) adopted in April 2004 welcomed Albania's progress since 2001 towards a functioning pluralist democracy and a state governed by the rule of law and respect for human rights. The Assembly concluded that, "the monitoring procedure should remain open until the Albanian authorities achieve further progress in the compliance with general obligations and specific commitments resulting from Council of Europe membership, notably to demonstrate tangible achievements in preventing and fighting corruption and organised crime, to improve their record in the implementation of legislation and to carry out elections in full compliance with international standards".

3. The Assembly welcomes the fact that the July 2005 elections marked the first peaceful and smooth transfer of power in Albania since the fall of communism and the first parliamentary elections in 1991: a new government formed by the Democratic Party and smaller parties took over from the previous Socialist Party government and was sworn into office on 11 September 2005.

4. However, Albanian political life is plagued by confrontation and obstructionism. The poor political climate is delaying reforms, in particular in the field of election legislation and the media, which are urgently required in view of the forthcoming local elections scheduled for February 2007. A bi-partisan agreement reached on 30 August 2006 with international assistance was warmly welcomed but has yet to be implemented.

5. Albania has good and improving relations with its neighbours and has maintained its open and constructive policy towards Kosovo, supporting settlement of its final status within the framework of its integration with the European Union. Albania has also maintained stable economic growth and poverty is progressively decreasing.

6. The Assembly congratulates Albania on the signing of the Stabilisation and Association Agreement with the European Union in June 2006 and notes that the political requirements for European Union accession largely coincide with Albania's commitments and obligations towards the Council of Europe in the field of democracy, the rule of law and human rights.

1. *Assembly debate* on 25 January 2007 (8th Sitting) (see Doc. 11115, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Platvoet and Mr Wilshire). *Text adopted by the Assembly* on 25 January 2007 (8th Sitting).

7. With regard to Albania's obligations in respect of democracy:

7.1. the Assembly recalls that the International Election Observation Mission, including the Ad hoc Committee of the Bureau, concluded that the parliamentary elections in Albania on 3 July 2005, although conducted on the basis of an improved electoral code, "complied only partially with international commitments and standards for democratic elections". In this regard:

7.1.1. the Assembly believes that the Albanian authorities should in particular continue to improve the accuracy of civil registers and voters' lists and develop a uniform system of addresses for buildings; new identity documents should be introduced; the excessive role of political parties in electoral procedures should be limited and the election administration should be reviewed;

7.1.2. it welcomes the fact that all political parties have agreed to address the controversy that has arisen from the scope for tactical voting in the current election laws. It asks them to resolve this dispute through the current electoral reform process with the assistance of international experts including the European Commission for Democracy through Law (Venice Commission), and to show serious commitment to accelerating electoral reform on other issues in order to implement their own agreement of 30 August 2006 and the remaining recommendations made by international observers;

7.2. the Assembly welcomes the fact that the parliament has continued to reinforce its influence and role and, despite disagreements about voting procedures, has made steady improvements in its technical operation;

7.3. it regrets that relations between the political parties have remained polarised and fraught, thus slowing parliamentary work on reform. All the political parties share responsibility for strengthening the powers and role of the parliament. Major reforms require broad political consensus which should be reached in parliament;

7.4. the Assembly notes that, according to the Congress of Local and Regional Authorities of the Council of Europe, "despite the expressed intention of an ambitious reform programme announced by the current government, measured by reference to legislation actually passed, little has happened so far to reform the system of local and regional government in Albania". In this connection, the Assembly:

7.4.1. welcomes the measures already taken by the government: the increase in unconditional grants for local government; the transfer to local government of responsibility for the collection and administration of taxes for small businesses as well as for the administration of sewage systems and water supplies; and the transfer of state-owned property to local government;

7.4.2. urges the Albanian authorities to implement the recommendations made by the Congress, in particular as regards: the current state of local and regional self-government and their compliance with the European Charter of Local Self-Government (ETS No. 122); regional self-government; the financial autonomy of local and regional authorities; the administrative supervision of local authorities; the electoral system and forthcoming local elections;

7.4.3. attaches great importance to the forthcoming local elections which it considers a major test for the capacity of the Albanian authorities to organise free and fair elections. Given the failure to adopt comprehensive electoral reform in line with recommendations made previously by international observers, some priority issues must be addressed in time for the local elections, such as recommendations regarding the voters' lists, election administration, vote counting, tabulation and appeals procedures.

8. With regard to Albania's obligation to ensure respect for the rule of law:

8.1. the Assembly welcomes the measures already taken to establish and enforce a zero-tolerance policy in the fight against organised crime, trafficking and corruption. It notes in particular that:

8.1.1. in compliance with its Resolution 1377 (2004), the law on the Court of Serious Crime was amended to limit the court's jurisdiction to cases of organised crime and trafficking in human beings. The Court of Serious Crime and the Serious Crimes Prosecutor's Office have proved to be strong weapons in the fight against organised crime;

8.1.2. the government has achieved significant results in the fight against organised crime, with charges having been brought against more than 33 criminal groups involving hundreds of people;

8.1.3. regarding corruption, a large number of public officials are under investigation, are being prosecuted or have been convicted on corruption charges. The auditing and controlling authorities have intensified their activity with respect to the use of public funds in public administration;

8.2. while reforms in public administration to fight corruption and reduce costs are to be welcomed, the Assembly urges the Albanian authorities fully to respect the law on civil service when hiring and dismissing staff. The effectiveness of the public administration should be further strengthened and this cannot be achieved by simply reducing or replacing staff. It is also necessary to increase the professionalism of senior civil servants and to put an end to political appointments;

8.3. the Assembly regrets that efforts to make rapid progress in the fight against corruption have sometimes resulted in some poorly drafted laws, a number of which have been subsequently declared unconstitutional. Legislation should be carefully prepared in full respect of the principles of the rule of law and better use should be made of both domestic and international expert advice, including that from the Council of Europe. In the context of its fight against corruption, government and parliament should also ensure full respect for independent and constitutionally guaranteed institutions, such as that of the general prosecutor and the High Council of Justice;

8.4. the Assembly notes that efforts to improve implementation of legislation are ongoing, but tangible results have yet to be achieved. Effective implementation could be further strengthened by ensuring increased transparency in the drafting of laws;

8.5. it welcomes progress in the execution of final court decisions as a result of a reorganisation of the bailiff service and improvements in the functioning of the judiciary and welcomes the fact that new judges are appointed only if they are graduates of the Magistrates' School;

8.6. the Assembly urges the Albanian authorities to further pursue judicial reform. In particular they should:

8.6.1. take into account Council of Europe expert advice on draft amendments to the law on the organisation of the judiciary in order to strengthen the independence and professionalism of judges;

8.6.2. address the problem of remuneration of judges and increase the budget for the judiciary;

8.6.3. adopt legislation on the status, recruitment, competencies and remuneration of courts' administrative staff;

8.6.4. continue the training of judges and prosecutors through the Magistrates' School and provide for competitive examinations for new appointments;

8.6.5. take into account Council of Europe expert advice on the law on the organisation of the prosecutor's office and introduce a system for the evaluation of prosecutors as was recently done for judges.

9. With regard to Albania's obligation to ensure respect for human rights and fundamental freedoms:

9.1. the Assembly welcomes the decision of the Albanian Government, in July 2006, to authorise the publication of two reports by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and urges the Albanian authorities to:

9.1.1. enforce speedily the recommendations contained in these and previous reports and take resolute measures to put an end to ill-treatment in police custody by increasing the effectiveness of relevant investigations and bringing to justice and punishing those responsible;

9.1.2. complete effectively the transfer of responsibility for pre-trial detention centres to the Ministry of Justice, improve prison conditions and build new detention centres;

9.2. the Assembly welcomes measures taken to increase the transparency of the government's work and supports the ongoing efforts to improve the implementation of laws on access to information and raise citizens' awareness of their rights. It welcomes the adoption of the new Code of Ethics for journalists and the establishment of the Council on Media Ethics, as well as the adoption by the government of a policy not to use the existing libel law as a means of intimidating journalists;

9.3. the Assembly asks the Albanian authorities to:

9.3.1. adopt without further delay amendments to the Criminal and Civil Codes to decriminalise libel and reform civil defamation provisions with Council of Europe assistance ;

9.3.2. improve the regulations on the ownership and financing of media outlets;

9.4. it welcomes the fact that, following a confrontation over legislative amendments with respect to the composition of the two regulatory and supervisory bodies of the electronic media, a consensus was reached between the majority and the opposition in early August 2006 to request Council of Europe expert assistance regarding the development of legislative reform in the media;

9.5. the Assembly asks the Albanian authorities to:

9.5.1. review media legislation in accordance with the comments to be made by Council of Europe experts;

9.5.2. ensure that any future draft legislation regarding media reform be thoroughly prepared in a transparent manner following consultation with media representatives;

9.5.3. complete the change of the Albanian television channel from a state-controlled service into a public broadcasting service;

9.6. the Assembly asks the Albanian authorities to speed up the process of registration and restitution of property confiscated under the communist regime, as well as the granting of compensation in compliance with the constitutional guarantee of the right to property and Article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 9);

9.7. it welcomes the recent signing of memoranda of understanding between central and local authorities in regions where minorities are concentrated;

9.8. the Assembly asks the Albanian authorities to:

9.8.1. work for a nationwide census on minority affiliation without further delay;

9.8.2. strengthen the role of the newly established State Committee on Minorities by establishing clear rules and guidelines for its work;

9.8.3. ensure effective implementation of the Framework Convention for the Protection of National Minorities (ETS No. 157) by improving existing legislation and adopting specific bylaws to ensure education in and the use of minority languages in dealings with the authorities and the use of traditional local geographical names;

9.8.4. continue their efforts to implement the recommendations made in the 2004 report of the European Commission against Racism and Intolerance (ECRI), especially as regards the situation of Roma and Egyptians;

9.9. noting that domestic violence against women and the protection of children's rights remain of serious concern, the Assembly asks the Albanian authorities to:

9.9.1. implement effectively a law on the prevention of domestic violence;

9.9.2. promote the active participation of women in the political life of the country;

9.9.3. implement rapidly measures to effectively tackle the problems of school attendance, child labour and unregistered children;

9.10. the Assembly encourages the Albanian authorities to counter all forms of discrimination;

9.11. it welcomes the significant decrease in trafficking in human beings over recent years as well as agreements recently signed or planned with neighbouring countries on the readmission of trafficked children;

9.12. the Assembly asks the Albanian authorities to further improve effective prosecution of traffickers and assistance to the victims of trafficking.

10. With regard to the formal commitments entered into upon Albania's accession to the Council of Europe, the Assembly reiterates its request to the Albanian authorities to sign and ratify the European Charter for Regional or Minority Languages (ETS No. 148) as soon as possible.

11. Recognising the progress achieved so far, the Assembly resolves to pursue its monitoring on the honouring of obligations and commitments by Albania until measures taken or planned in the fields mentioned in this resolution have produced tangible results.